

A BETTER GUIDE THAN REASON:

Studies in the
American Revolution

by
M. E. BRADFORD



Introduction by Jeffrey Hart

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*For my mother and father,
who early indulged and encouraged
my interest in the inherited things*

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PREFACE

Despite visible indications of a consistent point of view, the origins of this book are occasional. All but one of the studies included were originally prepared as commissioned addresses for delivery during the period of our national Bicentennial. As my acknowledgements will indicate, these performances as a set took me all across the country—from California to South Carolina, Michigan to Virginia, Pennsylvania to Alabama, and to various locations in my native Texas. In every case I spoke as a man of letters who hoped to bring some of the special equipment of the rhetorician into conjunction with an avocational interest in history and political theory and to bear upon certain documents surviving to us from the period of the American Revolution. My intention was to correct commonly accepted errors about the temper of our forefathers—errors made possible by our inability to read their political literature in the spirit and according to the formula by which it was composed.

In the course of preparing these addresses, I naturally read my way through the received authorities on the origin and meaning, thought and purpose of the American Revolution. This study gave a negative impetus to my work and contributed to it another circumstantial quality, one that I had not presupposed. From my knowledge of eighteenth-century British letters (a highly political literature), I had come to recognize how and what articulate Anglo-Saxons were likely to feel and believe concerning most public

questions and to be familiar with the forms of discourse with which they addressed their times. And I also knew something of how earlier generations of my own immediate ancestors in the American South remembered and revered that "first" restorative revolution. The American Revolution depicted in the baneful consensus of the major contemporary authorities on that portion of our intellectual history seemed to me on its face to contradict what I believed to be possible. Historians are of all men supposed to be the most immune to the provincialism in time, to the popular forms of modernist anachronism. The truth is, however, that even the best of them are sometimes among its sources. Spurred on by an assurance that there would be ample evidence to support my suspicion that the American Revolution was in essence an Old Whig, legalistic outburst of anger with British "innovations" and that (outside of New England) it had very little in common with the English Revolution of the 1640's or with the great "philosophical" revolutions of doctrine which have their prototype in the France of 1789, I have looked to the men and the sources most frequently neglected in the commentary. But the reader may judge as to what I have found.

Yet it would be misleading to suggest that I prepared this sequence of papers without the assistance of many helpful guides. Of first importance has been H. Trevor Colbourn's *The Lamp of Experience: Whig History and the Intellectual Origins of the American Revolution*. Another mentor is identified in my concluding essay. Despite our differences over Abraham Lincoln, I believe that Russell Kirk understands early America better than most academic specialists in the field. Daniel Boorstin, Jack Greene, Louis B. Wright, and Hannah Arendt have reinforced my conviction of the danger of any ideological interpretation of those momentous times.¹ I am greatly indebted to the political theory of Michael Oakeshott and to Eric Voegelin's analysis of the Puritan mind. In rhetorical criticism I follow, from a distance, the example of the late Richard Weaver. Furthermore, I sometimes draw heavily upon the researches of the very scholars with whom I quarrel. These obligations are specified

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in my notes. In most of these essays I attempt to “read”, as literary critic, one or two important compositions from the period of our political inception. Presupposed in every chapter is the necessity to correct conventional misreadings of the Declaration of Independence: that is to say, the imperative to discourage compulsive filtering of our national beginnings through the first sentence of paragraph two in that instrument of separation. When we consider what disruptions still proceed from the simplistic view of that one document, we can easily recognize how topical these seemingly antiquarian inquiries may become.

Throughout these studies there is the assumption that Henry Steele Commager, Bernard Bailyn, R. R. Palmer, and Gordon S. Wood (to name a representative selection) are incorrect in emphasizing the discontinuity of the America which struggled to achieve independence with its pre-revolutionary English past.² Except insofar as the original creation of the particular colonies marked an innovation, a founding which the English in America soon came to regard as part of their constitutional patrimony. And therefore the concomitant assumption that ours was a revolution to conserve a known regime, not an attempt to create out of whole cloth an “empire of reason”. Continuity is my constant theme—English continuity!*

There is, of course, a piety for most of what really happened in the years between 1767 and 1787 that is implicit in the act of recovery here attempted. That reverence is reason enough for this book. Yet, as my title suggests, there are other justifications. A political tradition which argues its view of human rights as properties to be understood only in the continuum of a particular history, as having no meaning *in vacuo*, has many advantages not to be found in what Professor Oakeshott has rightly labeled “the teleocratic regime”. A *societas* seems to me preferable to a *universitas*—at least

* It is the characteristic of Old Whig teaching to emphasize not the future but the past. New Whigs are “progressives”—of the variety described by Sir Herbert Butterfield in his *The Whig Interpretation of History* (London: G. Bell and Sons, Ltd., 1963), and less concerned with precedent than their legalistic counterparts.

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for free men. The only freedom which can last is a freedom embodied somewhere, rooted in a history, located in space, sanctioned by a genealogy, and blessed by a religious establishment. The only equality which abstract rights, insisted upon outside the context of politics, are likely to provide is the equality of universal slavery. It is a lesson which Western man is only now beginning to learn. And at great cost. Therefore it has been for me both a pleasure and a relief to spend the time devoted to these compositions in the clearer air in which we began our notable experiment in self-government. I will be pleased if others follow me to visit among the sagacious spirits who first pointed us in the way that we should go.

For their counsel and suggestions with respect to particular components of this volume, I wish to thank my colleagues, Professors Frederick D. Wilhelmsen and Thomas H. Landess. And for the hospitality and encouragement of the institutions where these papers were first delivered, I am grateful. The staff of the Library of the University of Dallas has rendered me invaluable assistance in the collection of needed materials. The Texas Educational Association, through its president, Mr. Beverley V. Thompson, Jr., facilitated the completion of this work with a timely research grant. In the preparation of both the oral and written versions of these studies, the guidance and support of my wife, Marie, has been indispensable.

NOTES

1. Daniel J. Boorstin, *The Genius of American Politics* (Chicago: University of Chicago Press, 1953); Jack P. Greene, *All Men Are Created Equal: Some Reflections on the Character of the American Revolution* (Oxford: Clarendon Press, 1976); Louis B. Wright, *Tradition and the Founding Fathers* (Charlottesville: University Press of Virginia, 1975); and Hannah Arendt, *On Revolution* (New York: Viking Press, Inc., 1963).

2. Henry Steele Commager, *The Empire of Reason: How Europe Imagined and America Realized the Enlightenment* (Garden City, N.Y.: Anchor Press/Doubleday, 1977); Bernard Bailyn, *Ideological Origins of the American Revolution* (Cambridge: Harvard University Press, 1967); R.R. Palmer, *The Age of the Democratic Revolution: A Political History of Europe and America, 1760-1800*, 2 vols. (Princeton: Princeton University Press, 1959, 1964); Gordon S. Wood, *The Creation of the American Republic, 1776-1787* (Chapel Hill: University of North Carolina Press, 1969).

INTRODUCTION

An American Plutarch. A Confederate Voegelin. Such characterizations of M. E. Bradford seem inevitable. They suggest the importance and seriousness of his work, the fact that he is profoundly rooted in the traditions of Western civilization, Roman and biblical and regional. They suggest that his work is both historical and deeply philosophical.

Plutarch. Yes, there is Bradford's piety toward the founders, the elders of the republic. He brings them alive for us intellectually, turns them into our contemporaries and counsellors, invites us to participate with them in serious conversation. Washington, Dickinson, Patrick Henry—no longer remote figures, they become felt presences in these pages. "See, they return," as Eliot writes in "Little Gidding," "and bring us with them."

II

I first met Mel Bradford in 1969. He was a young professor at the University of Dallas, and I had been invited there to give a Convocation address. A large human being in a Texas hat approached me, and we spent most of my visit together. I understood at once that this genial Southerner possessed that rare thing, an original mind.

The University of Dallas is a distinctive and valuable place, and very suitable to Bradford's special combination of talents. It is

presided over, in its humanistic aspects at least, by the spirit of the late Willmoore Kendall. In his last years, Kendall had brought into being there a unique Ph.D. program in politics and literature. Kendall had been a Rhodes Scholar, and he thus translated an Oxford idea into American graduate school terms. Kendall's mentor, the great Leo Strauss, had read the classic political texts with the closeness of a literary critic. At Dallas, Kendall took the next step, combining in an institutional way the study of those political texts and the study of poetry and prose. But if Kendall's creation looked back to Leo Strauss, back to Oxford, it also looked forward to M.E. Bradford, who has carried the process another step forward.

Unlike Kendall, unlike Strauss, Bradford is both a political thinker and a practicing literary critic. He can explore in a profound way the Declaration of Independence or the Federalist Papers, but he is also one of our leading explicators of Faulkner, and he has written a book on the poetry of Allen Tate. That combination of capacities represents something new in the American academy and in American intellectual life generally; but it would not have seemed at all strange to Jefferson or Madison or Lincoln. Both a poem and a political text are made of words, and like those earlier Americans, Bradford is a master rhetorician.

Soon after we met in Dallas, I invited Bradford to speak at my own college, Dartmouth, and this courtly, larger-than-life Southerner ventured northward, to New England, the spiritual home of the utopian enemy, the country of the city on a hill with its white churches and spires pointed heavenward. It is the pervasive theme of Bradford's work that New England—both as region and as mode—tries to force heaven, take it by storm, impose it everywhere through Calvinist logic. Bradford knew that the Calvinist logic was alive in, for example, busing—which had less to do with actual people than with some vision of virtue. He also knew, as Calvin himself did not, that God is not primarily a logician. "Not a sparrow falls" That is not the statement of a logician, but of a comprehending love. Anyway, Mel Bradford came to Dartmouth, and, magical moment, defended his own classical vi-

sion of a finite republic before a largely liberal audience, speaking under a baleful portrait of old Daniel Webster himself.

III

In the decade that has passed since that time, Bradford has become one of our most productive and indispensable writers on political culture. It is one of the ironies of history that the defeated side seems to have the deepest insights, perhaps because in defeat it experiences the limits of the world. Christ came from the defeated side, but so did Plato, Dante, the Shakespeare of *The Tempest*, Milton, Swift, Burke, Henry James, and, of course, Faulkner. In his bones, Bradford knows what political and cultural crucifixion is like, complete with jeering enemies, marching troops, a shattered society, and people making a lot of money out of the disaster. At such moments, thought gets born.

In his work of the past decade, reflected here, Bradford has focussed upon three periods: the period of the American colonial revolution, the period of the Civil War, and upon the present day. He has written most directly about the first two, but it is plain that he sees their bearing upon the present. As far as the present is concerned, it should be borne in mind that this is a scholar and a classically trained rhetorician who can also address an East Texas political rally from a flat-bed truck after a country band has done its thing.

IV

"There I saw one I knew, and stopped him, crying 'Stetson!/You who were with me in the ships at Mylae!' " Thus, in 1922, the narrator of *The Waste Land*, that modern Virgil-Dante, encounters on King William Street a veteran of the Second Punic War—or was it a veteran of World War I? In the timeless Hell of *The Waste Land*, all of history stands on the head of a pin. Like the storm in those Shakespearean tragedies, "the war" is endlessly

present, always going on, endlessly repeating itself in different versions. For Bradford, the war is always going on, but it has a specific identity. In one of its versions it is the Civil War. But in a more general sense it is the war between human reality (and those who love it) and those who would impose upon it a utopian vision (i.e., those who hate human reality). Bradford sees the utopian vision manifesting itself in American history as an impulse toward mathematical equality. As against these aggressions against actuality, he undertakes a "reconstitution of being."

He begins from the ground up, making bricks with straw. Thus, as he writes, "A *societas* seems to me preferable to a *universitas*—at least for free men. The only freedom which can last is a freedom embodied somewhere, rooted in history, located in space, sanctioned by a genealogy, and blessed by a religious establishment. The only equality which abstract rights, insisted upon outside the context of politics, are likely to provide is the equality of universal slavery. It is a lesson which Western man is only now beginning to learn. And at great cost."

It is possible to quarrel with that formulation. I would say that the rhetoric of abstract rights, today, in a Western context does tend toward a uniformitarian imposition. But that rhetoric is functioning in a society already free. The rhetoric grew up in an eighteenth-century context of benevolent and not so benevolent despotism. In 1770, in France, what "political" recourse was there? In that context, rights were simply posited. I myself would be ready to posit a few rights "outside the context of politics" were I residing in, say, the Soviet Union or China today. But Bradford is correct, correct here. In a free society, the positing of rights tends to be, objectively speaking, on the side of tyranny and against the freedoms of free men.

V

Bradford's method of analysis—and, as readers will see, his analyses are brilliant—reflects his presuppositions. To put it one

way, he rescues his texts from paraphrase. He teaches us, as Cleanth Brooks a generation ago did in connection with literature, about the "heresy of paraphrase" where political documents are concerned. He returns those documents to their concreteness.

Another way of putting it is that he knows the true meaning of that old-fashioned term "rhetoric," and he knows that the presuppositions of the art of rhetoric are soundly rooted in human nature. He thus objects to the "habit of reading legal, poetic, and rhetorical documents as if they were bits of revealed truth or statements of systematic thought. My objections derive principally from those anti-rationalist realms of discourse. For I assume with Swift that man is a creature capable of reason, *capax rationis*, but not a rational animal. Therefore the head and the heart must be engaged together where instruction is attempted. The burden of poetry and rhetoric is inherent in the form through which the idea is embodied: its meaning is its way of meaning, not a discursive paraphrase."

He sees, for example, that the Declaration of Independence "is clearly a document produced out of the *mores majorum*—legal, rhetorical, poetic—and not a piece of reasoning or systematic truth. No sentence of its whole means anything out of context."

On the controversial "created equal" clause I find Bradford's demonstration completely convincing. He notices that the first word of the second sentence of the Declaration is "We." It is as a "we" that the document speaks. "We" in that second sentence signifies the colonials as the citizenry of the distinct colonies. They speak here in their corporate capacity, not as separate individuals. Therefore the following "all men" refers to other men in their equally corporate capacity. They are equal to other corporate entities in their "right to expect from any government to which they might submit, freedom from corporate bondage, genocide and massive confiscation." They are equal to Englishmen and not inherently inferior *as a citizenry*. So much is among things "self-evident," that is, obvious. To lift the created-equal clause out of the document is to risk a serious and perhaps dangerous misreading.

VI

It is out of that reading of the *Declaration*, a reading of it as an Old Whig document rather than a modern egalitarian one—surely correct—that Bradford's quarrel with Abraham Lincoln arises. He focuses upon the famous Gettysburg Address, but includes other major Lincoln documents. The Gettysburg Address he reads as a "refounding" document which changed the common sense meaning of the created-equal clause into a utopian proposition to which we are "dedicated"—not a statement of obvious fact, but a strenuous program to be enacted.

In Bradford's view, Lincoln deliberately distorts the Declaration in the interest of a utopian vision of equality and a mystical devotion to the "Union." Thus, "The most important formal property of Lincoln's great address is the biblical language in which it is cast. . . . Lincoln's strategy in the first sentence at Gettysburg is to lift beyond discourse, away from the political and into the 'moral' order, what stands in the Declaration. . . . The world of the epideictic, of 'four score and seven' (versus 'eighty-seven') or 'our fathers', is an ultra-prescriptive realm which claims God for a sponsor and a sanction from outside time for what is done within it; a sponsorship through a 'righteous blood' or genealogy (where fathers are important—particular, as opposed to founders—and private) and according to partially mysterious purposes (as opposed to 'reasonable ends'). . . 'Consecrate' and 'hallow' are invoked to sanction a 'new birth'. And the Union dead, not the clergy, shall provide an aegis for the event."

Lincoln, according to Bradford, thus introduced a messianic and levelling element into American politics. It is a brilliant exposition, and concerning it I myself am open-minded. It is at least possible that the messianic element—one could also call it the romantic demand—was central to nineteenth-century culture; that a certain *heightening* was demanded, and that Lincoln, an expert rhetorician, provided it. It was not a messianic president, after all, but a populist rebel who decked out an argument about cheap money in terms of crowns of thorns and crosses of gold. Yet Brad-

ford makes one think deeply about the meaning of Lincoln's rhetoric, in the Address and elsewhere, and about the strange "Battle Hymn" of Julia Ward Howe, a chilling liturgical accompaniment to the pseudo-gospel of Gettysburg. Bradford's discussion of Howe's hymn extends and deepens the discussion of it begun by Edmund Wilson in *Patriotic Gore*. Whatever the truth about Lincoln's inner intention, one thing is certain: when that kind of apocalyptic feeling becomes central to politics, the bill to be paid is going to be very high. Amid such blood-curdling hallalujahs, one longs for the reasonable restraint of the eighteenth-century founders.

VII

I would hazard the guess that popular culture is always romantic and messianic, and that the eighteenth-century restraint of Washington, Madison and the others had a distinctively aristocratic quality, even though these men were not, strictly speaking, aristocrats. Keeping the sacred and the secular distinct requires great self-discipline, and people in general do not seem to do it. They do want fathers rather than founders, they do want George Washington to be the father of his country rather than the tough Virginia squire who knew how to manage the Philadelphia Convention.

Indeed, and I would like to be a bit playful as well as serious here, a kind of popular divinization of the presidency has actually prevailed, whatever cant we hear about the imperial presidency. We have, in fact, a kind of presidential analogue of the Trinity. Lincoln does figure prominently in this.

No one need ask who in this presidential Trinity corresponds to God the Father. This is George Washington, remote and austere, the unmoved Prime Mover, his Monument by the Potomac a brilliant symbolization of his Fatherhood.

The Second Person? Who else but Lincoln himself, the *suffering* president, suffering and dying for the nation's political original sin, slavery.

The Third Person, the Holy Spirit? Clearly none of those portly men with beards from the past, not Wilson, too prim, not Franklin Roosevelt, too cynical and earthy. For a long time the post remained available. But surely the presidential Third Person is John F. Kennedy, whose contribution to the presidency was almost entirely the secular equivalent of grace, i.e., style. His claim to this mythic identity, indeed, has been shrewdly symbolized by that eternal flame burning at his Arlington tomb, that flame, the secular version of Pentecost.

And of course we also have, in this popcult structure, our secular equivalent of the Dark Figure, "Hurl'd headlong flaming from th' Ethereal Sky"—and now residing in San Clemente.

VIII

Enough playfulness, even serious playfulness. This is an extraordinary book, deep in itself and giving rise to deep thoughts in all sorts of matters. There does exist, perhaps has existed from the beginning, a hatred of actual being that takes a variety of forms. It can be gnostic, millennialist, utopian. It is always aggressive and absolutist, its claims admitting of no modification, no compromise.

"Millennialism," writes Bradford in a central passage, "can mean no other thing today—and always moves from an ontological reaction against the distance separating, by definition, creation and Maker; moves into either a 'pulling up' or a 'pulling down.' With it we worship ourselves: falsify, and then forget our birthright. Variety, structure, measure, and any form or differentiated order are likewise millennialism's enemies—the original bill of things as written for our tenure in this place of test and trial. A new Beast is always to blame for impediments to the perfecting will. And therefore someone else is to be assailed. Millennium is always to come. But not yet, not until after the next revolution, peaceful or bloody! The freeing, however, is never done—that is, without new slaveries. To this succession and shifting of targets there can be no end, no conclusion to the wandering hither and yon in quest of terrestrial

beatitude. . . . With each new goal the frustration born of unfounded expectations comes closer and closer to rending the ties that bind. Said another way, the rhetoric of easy hope can produce only the politics of discontent. For some years we have been proving out that particular proposition—the basic truth and inherent danger of democracy.”

In this book, in these essays, some of them among the most important of our time, Bradford provides us with a masterful phenomenology of the American and the Western spirit. We can hardly prosecute the struggle we are in unless we recognize that we are in it, and unless we recognize its nature. Bradford provides the necessary recognition.

—Jeffrey Hart
Dartmouth College
January, 1979

PART I

A TEACHING FOR REPUBLICANS: ROMAN HISTORY AND THE NATION'S FIRST IDENTITY

The Federal District of Columbia, both in its formal character as a capital and also in its self-conscious attempt at a certain visual splendor, is, for every visitor from the somewhat sovereign states, a reminder that the analogy of ancient Rome had a formative effect upon those who conceived and designed it as their one strictly national place. What our fathers called Washington City is thus, at one and the same time, a symbol of their common political aspirations and a specification of the continuity of those objectives with what they knew of the Roman experience. So are we all informed with the testimony of the eye, however we construe the documentary evidence of original confederation. So say the great monuments, the memorials, the many public buildings and the seat of government itself. So the statuary placed at the very center of the Capitol of the United States. And much, much more.

But Roman architecture and sculpture were not the primary inspiration for America's early infatuation with the city on the Tiber. That connection came by way of literature, and particularly from readings in Roman history. What Livy, Tacitus, Plutarch, and their associates taught the generation that achieved our independence was the craft of creating, operating, and preserving a republican form of government. For gentlemen of the eighteenth century, Rome was the obvious point of reference when the conversation turned to republican theory. The Swiss, the Dutch, the Venetians and (of course) the Greek city states sometimes had a

place in such considerations. And in New England the memory of the Holy Commonwealth survived. Yet Rome had been *the* Republic, one of the most durable and impressive social organisms in the history of the world. Moreover, there was a many-sided record of how it developed, of how its institutions were undermined and of the consequences following their declension. This Rome was no construct issuing from deliberations upon the abstract "good", no fancy of the "closet philosophers".¹ Public men might attend its example with respect, learn from its triumphs and its ruin. On these shores they did. And, once we were independent, with a special urgency. To explain why and with what results, I will first reconstruct a composite Roman model according to the understanding of those first Americans and then document that pointed synthesis with a limited selection from the wealth of supporting evidence left to us from the architects of our political identity. Only then will it be possible to account for the impetus given by this effort at emulation to the development of an indigenous American regime: account for and thus correct many now accepted readings of our early history, as that identification requires.

The best way to recover Roman history as it signified to the English Whig or likeminded commonwealthsman of the late eighteenth century is to ignore such diverting questions as what it meant to the republican historians themselves, to Polybius, to Plutarch, the Renaissance, or the leaders of the French Revolution. Or of what it means to Western man today. The distinction here is akin to the difference between the study of biblical influence and direct exposition of the scripture itself. Our fathers trusted the Roman historians rather well. To them, as to other late Augustans, history was a moral and political study, not a precise antiseptic science.² And especially Roman history. They found the truth of men and manners in its long and varied entirety. This enlightenment did, to be sure, include a deposition from life under the Caesars—even though that testimony was chiefly negative in character. But the deepest teaching of the full chronicle was concentrated in its first three parts: from 510-262 B.C., the rise of

the Republic (in Livy and Book II of Cicero's *De Republica*); 262-202 B.C., the era of the Punic Wars (in Livy, Appian, and Polybius); and 202-27 B.C., the decline toward anarchy and despotism (in Sallust, Lucan, Tacitus, Suetonius, Plutarch, and others).³ Admiration for the old order was a convention with the later, imperial authorities. Caesar allowed the sentiment, sometimes even officially encouraged it: Caesar as the only conceivable keeper of the republican fires. Yet the moral imagination of *Romanitas* continued its location in the memory of the Republic long after the subject of this recollection had forever disappeared. Nothing could be more republican than the wicked, arbitrary, and tumultuous princes drawn to life in Suetonius' *Twelve Caesars*, than Tacitus' portrait of Tiberius in *The Annals*, or the Galba and Otho of Plutarch's *Parallel Lives*. But these writings are republican only by implication. It is a presupposed knowledge of the Republic itself, and of the books where it is described and reported, that gives them an indirect resonance of bygone stabilities. Finally, it is *the history of the Republic* that is republican history proper.

Yet an even further narrowing of focus is in order. Beyond any doubt or question, the second of my divisions of the Roman record before Augustus is the most important. For its relation to the other two is almost as normative as that of the entire Republican period to the total history of Rome. Indubitably, the tale turned there, the action that embodied and implied the politics with which we are here concerned. In other words, the Rome that overcame Carthage was the perfection of pagan republicanism. Its merit, slow and certain in formation, corporate and all-absorbing in operation, was revealed in that test. Rome as a whole won a victory—won it with finality despite poor generalship, lack of sea power, and a terrifying adversary. That the consequence of successfully implementing this perfection was to be internecine strife is in no wise a necessary judgement upon the constituent particulars which worked toward its formation: is instead only evidence that traditional societies cannot recognize their own composition as something frail, in need of self-conscious husbandry, of protection from internal schism and

the temptations of novelty and change. Imperial expansion, in conjunction with rearrangements within the Roman order—changes brought on by the exigencies of protracted conflict and unexpected, inadvertent conquests—disrupted the moral and economic balance of the Republic. Or at least set in motion the forces which brought that disruption to pass. How Rome at large became strong and then, by stages, lost that strength is what fascinated the generation which made a new republic in this new place.

Probably the best way to understand how the Roman Republic came to be is to consider the place occupied in its development by the Twelve Tables of the Law (449 B.C.). This codification made official and permanent the replacement of the ancient kings by a prescriptive, constitutional system. For the Law of the Tables was “essentially a codification of existing customs”, the “funded wisdom” of the Roman people upon which all subsequent additions to their legal order drew for their authority.⁴ It objectified their will toward existence as a community. To borrow language applied elsewhere, Rome was not *made* but *grew*. Despite the legend of Romulus and Remus and the myth of Trojan relocation, Romans did not connect their purchase on the favor of the gods with an original commitment to political “propositions” or a plan for improving the world. The ontological fact of Rome, rooted in familial piety, flourishing in patriotic zeal, was logically prior to any meaning it acquired. Out of the pull and push, the dialectic of a few tribes in central Italy, emerged a cohesive unity, bound by blood, place, and history, slowly absorbing neighboring cities and peoples once these had earned their right to absorption, periodically redistributing sources of power within itself whenever the amiable interaction of its constituent parts required such readjustment. For out of that remarkable oneness of spirit Rome had acquired its original hegemony. And out of it the city continued to grow and prosper under new and unexpected conditions: continued to augment the dignity of its name and the honor of having a share in that name’s hieratic authority.

Roman History and the Nation's First Identity

Said another way, the self-respect of every Roman depended upon his *being* a Roman. In a fashion which few of us would understand, the self in this system was derivative of the social bond and depended upon a common will to preserve that broad fabric of interconnection intact. A good Roman of the old school had personal pride and a considerable sense of honor. His was a shame culture, dominated by intense and personally felt loyalties to family, clan, and individual. Commitment to Rome had its root in, and was not separable from, these most primary attachments. They tell us what Rome meant. And why a true Roman was not an individual as we understand the term. Yet this frame of mind was not so statist or secular as such evidence would lead us to believe. For the fabled *virtus* of a full citizen under the Republic had a ground in what Richard Weaver wisely denominated "the older religiousness".⁵ Romans honored (and moved with them, as earth) the *manes* of their ancestors, the lares and penates of hearth and rooftree, the *genii loci* of groves and plains and waters, and the higher gods consulted through official augury: honored them privately and in the service of the state, itself always reverent toward the mysterious powers which touch the lives of men.⁶ But Rome's tangential connection with the numinous entailed little of fable or theology, little suggestion of a divine plan for the city, only prescribed rights and ordinances. And this bond through custom only reinforced their social and political conservatism whose patterns were of a piece with the inherited religion. Respect for *all* the *mores majorum*, the tested ways, permeated everything in the *habitus* of this society. The will of the Fathers *was* the will of the gods.

The old Roman of good family had about him a continuous visual reminder of the history by which he had been personally defined. I make reference to the images of his ancestors which had a prominent place in the disposition of his household effects. According to Pliny the Elder:

In the days of our ancestors [these images] . . . were to be seen in their reception halls . . . arranged, each in its own niche . . . to accompany the

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funeral processions of the family; and always, whenever someone died, every member of the family that had ever existed was present. The pedigree, too, of the individual was traced by lines to each of the painted portraits. Their record rooms were fitted with archives and records of what each had done. . . . This was a powerful stimulus.⁷

Roman history proper began with these family annals, and with the linen rolls which recorded by year the names of office holders and a few events. These propitiary figures stood between the Roman and the higher powers, dictated the religious ritual by means of which that relation was negotiated, *and could therefore dictate in conjunction with these rites a prescriptive law which was the political state as the customary forms of worship were the state religious*. Rome was the prescriptive law; and that law had a sanction in religion.

Of course, the prescriptive culture of plebeians and of the ordinary free farmers in the countryside was less elaborate than what we found in Pliny or can discover in the glowing pages of Fustel de Coulanges.⁸ Plutarch, however, in reporting a speech by the noble Tiberius Gracchus, leads us to believe that in the days of Roman glory the identity with the *antiquus mos* had been supported with the same ties with blood and place throughout every level of class and occupation. It is to the disappearance (during the Punic Wars and their aftermath) of these reasons for mutuality that the tribune objects. And for their re-establishment that he died.

The savage beasts, in Italy, have their particular dens, . . . places of repose and refuge; but the men who bear arms, and expose their lives for the safety of their country, enjoy in the meantime nothing more in it but air and light; and, having no houses or settlements of their own [are subjected to an indignity when their commanders exhort them] to fight for their sepulchers and altars . . . [when they have neither] houses of their own or hearths of their ancestors to defend.⁹

A general distribution of property, in at least thirty-one of the thirty-five tribes, was the strength-giving backbone of the Roman Republic. For, as one scholar has remarked, the original Roman was a farmer/soldier.¹⁰ And his mind reflected his occupation. Roman literature, and especially its normative components, tells us nothing to the contrary. It warns reiteratively against the corruption of the cities, the urbanite intrusion of foreign values or notions,

and praises the advantage, practical and spiritual, of rural life. I call this mood hard pastoral—as opposed to the Arcadian (escapist) or Dionysian (fierce) pastoral of the Alexandrian Greeks. Peace, health, and repose (as, for instance, in Horace) are a part of its benison. But not freedom from work or liberation from duty. Consider in this connection the *De Re Rustica* of Cato the Censor. Or the satires of Juvenal. Or the *Germania* of Tacitus (about the Romans, not the rough folk across the Rhine; for the Germans serve as reminders of the human excellence once possible in Rome's general population).¹¹ All locate Rome at its best with a regulated combination of honesty, thrift, patience, labor, and endurance—with the “home place”, the routines of field, stream, and altar, where men and women of a predictable character may be formed out of a well-tested mold. The city was a place of general worship, a scene for politics, an armory and refuge in war, a point of contact with other societies. Rome the city is thus an arena, but not a seedbed for the original Roman sensibility. As was the case with Sparta, its firmest walls were the breastplates of its soldier/citizens—so long as they could be expected to say (with Cato the Younger) in response to appreciation for service, “You must thank [instead] the commonwealth.”¹²

But this Cato Uticensis (along with his great-grandfather, the Censor, and perhaps Camillus, a cynosure of republican excellence) comes down to us as a byword because his rectitude was a dramatic, unbelievable anachronism when it appeared in the senate, the forum and the field. In Cicero, Lucan, Persius, Plutarch, Tacitus, Appian, Martial, Sallust, and Virgil, he is remembered as the exemplar in that he stood out in bold relief against the political and moral decadence of the social wars. And because the Republic breathed its last with him at Utica. There was only one Cato to resist Julius Caesar. To confront Hannibal there were thousands. Which returns us to my centerpiece of republicanism in action, the Rome of the Punic Wars.

Public spirit had its heyday in these troubled times. Rome's future existence was at stake. Livy tells us that after Cannae Roman women were forbidden to weep, that no man (soldier,

planter, or merchant) charged the state for his goods or service, that no one took political advantage of his country's distress.¹³ And Sallust adds in support that "before the destruction of Carthage the people and senate of Rome governed the Republic peacefully and with moderation. There was no strife among the citizens for glory or power."¹⁴ In the view of the prudent Polybius, the credit for this balance (his great theme) and thus for Rome's persistence belonged to its prescriptive, "organic" constitution: a constitution drawn by no law-giver or savant but made "naturally", not "by purely analytical methods, but rather through experience of many struggles and problems; with the actual knowledge gained in the ups and downs of success and failure."¹⁵ Of course, this is a slow process and certain to involve fierce conflict. Livy's first ten books give us a narrative of that evolution.¹⁶ And a clear impression of the reluctance among the plebeians (when agitated by their tribunes) to accept any stable order which did not guarantee their absolute control. Or the patricians to distribute unoccupied or conquered lands to those landless and deserving in the ranks of the common soldiery. Formidable enemies (such as Pyrrhus and Brennus) taught both the necessary lessons, that "such being the power of each element [of Roman society] both to injure and to assist the others, the result is that their union is sufficient against all changes and circumstances."¹⁷ Taught them just in time.

The history of the three wars with Carthage is as stirring a tale as anyone could want. It is a story of repeated defeats and terrible casualties. Yet always the city stands and its citizens regroup. Hannibal seems to fear the physical proximity of Rome, even when it appears to be defenseless. He wanders south, attempting (with no success) to break the loyalty of Rome's satellite communities. Then the tide turns. Carthage is riven internally. A narrowly commercial city, it has no healthy yeomanry to call to arms. Its aristocrats lack public spirit and aspire to absolute dominion. Mercenaries finally falter before armed and patriotic citizens. The Romans learn war at sea, learn Hannibal's tactics and discover in their midst a captain to face him down. Scipio locates the weak link in the armor of his

adversaries. The Africans lack dependable allies and cannot defend their city from siege. Carthage does not frighten the Romans. Thereafter the end comes swiftly. For a summary, I must cite Titus Livius once again: "No other nation in the world could have suffered so tremendous a series of disasters and not been overwhelmed."¹⁸ He does not exaggerate.

Who, after this, will dare to jeer at those who praise olden times? If there were a city composed of sages such as philosophers have imagined in some ideal, but surely not actual world, I for my part cannot think that it would contain leaders with greater dignity of mind and less lust for personal power, or a populace more admirably conducted.¹⁹

But as we all know, the republican spirit of incorporation disappeared rapidly once Cato the Elder got his way and the ancient (and perhaps useful) enemy was no more. It is a commonplace that the Roman Republic was ruined by success, both in the Punic Wars and in the East (Macedon, Parthia, etc.). It is more appropriate to say that the harm was done by the form of that achievement, and by the time that it required. External pressure had been necessary to the development of a balanced constitution and a cohesive interdependence of the classes, a community of older (patrician) and newer (plebeian) families.²⁰ Yet, contrary to many authorities, this dependence was in itself nothing ominous or unusual. Some of it is visible in the history of every healthy nation—an oblique proof that enemies can motivate a people to perform their best. Instead, the real problems were (1) removal of the Roman armies from the category of citizen-soldiers into the classification of full-time military professionals; (2) the consequent decline of home agriculture and village life; (3) the growth of large slave-operated, absentee-owned estates; (4) the large concentration of wealth in a new group of imperial managers and international traders; (5) a great dependence on foreign food and the skills of educated foreigners; (6) a sharp decline in character among the plebeians of the city—the emergence of a useless, dishonorable proletariat. Without a rural nursery for virtue or a necessary role for all citizens, and with Romans in the army detached (and almost in ex-

ile) from the motherland, the ground had been cut from under the institutions of the old Republic.²¹ Add to these harbingers of disaster the decline of the official Roman religion and the concomitant "passion for words flowing into the city", the foreign rituals and forms of speculation, and we can understand why old Cato drove out strange priests and philosophers.²²

But to no avail. For Rome, although it had no imperial theory, had acquired an empire with a rapidity and ease which its social structure could not digest.²³ Moreover, conquest had given the imperialist temper of the city a momentum which its earlier struggles in Italy did not foreshadow. The spread of wealth unconnected with merit or the spirit of public service completes the pattern: the substitution of "nobles" (rich men) for patricians (men of good birth); of *proles* (faceless members of a mob) for plebeians (plain but solid fellows). Sallust draws us a painful picture of the results:

The whole world, from the rising of the sun to its setting, subdued by [Rome's] arms, rendered obedience to her; at home there was peace and an abundance of wealth, which mortal men deem the chiefest of blessings. Yet there were citizens who from sheer perversity were bent upon their own ruin and that of their country.²⁴

And with the mob even worse: .

For in every community [thus corrupted] those who have no means envy the good, exalt the base, hate what is old and established, long for something new, and from disgust with their own lot desire a general upheaval. Amid turmoil and rebellion they maintain themselves, without difficulty, since poverty is easily provided for and can suffer no loss.²⁵

How different from the men who defeated "Pyrrhus, Hannibal, Philip and Antiochus, if not for [their] liberty and [their] own hearthstones [then for the] privilege of submitting to nothing but the laws."²⁶ I conclude my abbreviated Roman model with that potent conjunction. Liberty meant in this milieu access to one law, not freedom for "self-realization" (whatever that now signifies): dignity meant incorporation in that law, but not equality. Sallust informs us that, once the old kings fell from disrespect for liberty in law, living with senate, consuls, tribunes, and people under that an-

cient, common and impersonal authority made "every man . . . to lift his head higher and to have his talents more in readiness."²⁷ This was the *concordia ordinum* of Cicero.²⁸ Its significance was not lost upon 1688 English Whigs who could see in the Roman balance what they had themselves achieved *with* and *through* a king. And it was the obvious burden of Roman history for the English colonials in North America who lived in constant fear of despotic subjection, burdened by a sense of general decline in the moral fiber of their world—a decline with its source in England.

But Americans, in creating a new republic, a modified Whig Rome, were proving to themselves that by sundering the link with England they were resisting despotism and arresting the corruption of their fellows: that is, such of their countrymen as were prepared to honor law, the unwritten prescription, and the *patria* (their lesser homelands, the chartered colonies *qua* states). *Virtus* was demonstrated in every assembly, on every battlefield. Personal honor and the unselfish keeping of oaths were both assumed. But responsible liberty was the precondition for all of these elements of character: liberty restricted by a given identity and channeled by a will to cohesion shared by a number of discrete political entities and kinds of people. And, as with the Romans after Lucius Junius Brutus had done his work, the law and the prescription were actually strengthened by removal of the king from the American Whig configuration. New arrangements among persons and states, to institutionalize what they were (and what they were becoming by insisting on that character) seemed necessary. And especially after war. But no founding—any more than the Roman Republic had been an invention out of whole cloth. As for confederation, Rome did a lot of that, absorbed to defend itself any who accepted its values, could reinforce its strength and needed the protection combination could provide. Assuredly, Americans were a rural people, in the habit of governing themselves, with almost every freeholder a potential man-at-arms. Europeans, and especially the English who fought them, marvelled at the warlike firmness of these "embattled farmers". And soon enough they came to prefer such of

their number as could be recruited to serve in red to the mercenaries George III sent over. Add to this a general commitment to inherited religion and the pattern is complete. Once the die was cast, among such a people—a community which “knew the literature of Rome far better than they did that of England”—it is no marvel that, in making the break official, “the young boasted they were treading upon the Republican ground of Greece and Rome.”²⁹

I will not attempt to record all of the available expressions of self-conscious Romanism coming down to us from the original United States. For they are numerous enough to form a work of two large volumes. Indeed, they were so numerous, positive or even assertive that Gouverneur Morris of Pennsylvania complained of the “pedantry” of “our young scholars . . . who would fain bring everything to a Roman standard.”³⁰ Yet Morris grumbled in vain. For the analogy which he found to be oppressive informed the conduct of even so unintellectual and representative a public figure as the commander of our armies and then first President, George Washington. Consider for an instance Washington’s manifesto in answer to Burgoyne’s demands for submission, August, 1777: “The associated armies in America act from the noblest motives, liberty. The same principles actuated the arms of Rome in the days of her glory; and the same object was the reward of Roman valor.”³¹ Pure Livy—and from a man who kept a bust of Sallust on his mantel, who loved to be identified as a Cincinnatus and who quoted regularly from the *Cato* of Joseph Addison, his favorite play. And if Washington behaved in this way, what Romanizing would we expect to find among his more bookish, intellectually curious peers?³² But what surprises is not the Roman predominance in this early American passion for antiquity. For Augustan and later English neo-classicism was always principally an admiration for, and emulation of, Rome—not Greece. The difference on this side of the Atlantic was a matter of degree—of frequency and intensity in political application of the example. And especially outside of New England.³³

However, though I cannot cite every offhand remark that confirms the pattern of allusion suggested by Washington, I must expand somewhat upon the echoes of Roman history distributed among the sayings of our political forefathers in order to establish a ground for my final arguments concerning their implications for the interpretation of our national beginnings. And to this end I will emphasize a representative set of "rebels": Patrick Henry of Virginia, John Dickinson of Pennsylvania, and John Adams, the Squire of Braintree, Massachusetts. I commence with Henry because his draft upon the Roman model was so homely and so completely of a piece with his American Whiggery. For these reasons and because he represents the untroubled *Romanitas* of the South, where (as I have argued elsewhere) that attitude put down its deepest and earliest roots. Dickinson I include because he was one of the reluctant revolutionaries—a legalist or Erastian for whom the English Whig and Roman regimens coalesced into one (still predominantly English) instruction of American colonials. And also in recognition of his importance as a spokesman for the sensible Middle Colonies. John Adams is an obvious choice. For no colonial American was a deeper student of the history and political importance of earlier republics than this brilliant New Englander. Furthermore, he functions in pointed contrast to the perfectibilitarians so frequently spawned in the Zion of his nativity. Not one of this trio was an egalitarian, an optimist, or a devotee of "propositional, teleological politics". And not one was a *democrat* of the sort we are often led to imagine that such men must have been.

Though Patrick Henry was, with the possible exception of Washington, more frequently compared to the great figures of the Roman Republic than any American of his time, he was almost as little a scholar as his illustrious friend upstate. But what he did study, he knew well. Says William Wirt, his first serious biographer, Henry read "a good deal of history". And Livy "through, once at least, in every year during the early part of his life."³⁴ To what effect this concentration, we all know. But it is wise to consider the impact of Henry's vigor and *gravitas* on the leading

men of his own era. Only there can we recognize the premeditation in his achievements as patriot *qua* orator, his emulation of Livy's heroes. St. George Tucker in recalling the performance before the Virginia Convention of March 23, 1775 ("Liberty or Death") asks us to "imagine . . . this speech delivered with all the calm dignity of Cato of Utica; imagine . . . the Roman Senate assembled in the Capital when it was entered by the profane Gauls" ³⁵ And George Mason, when recalling his great contemporary's total career as keeper of the common *virtus*, of the memory that makes for honor, could go so far as to write that ". . . had he lived in Rome about the time of the first Punic War, when the Roman people had arrived at their meridian glory, and their virtue was not tarnished, Mr. Henry's talents must have put him at the head of that glorious commonwealth." ³⁶

So seemed Henry to the end of his life when he thundered against the ahistorical, impious ideology of the French Left. So even when, in 1788, he fought the ratification of the Constitution by summoning up the togaed exemplars of his boyhood dreaming, to say "nay" once more to power, to protect the hearth and roof-tree. ³⁷ Reasoning from the universality of his impact, we can assume with confidence that there was calculation in Henry's Roman posture, a sense of what could be accomplished by cultivating the Roman analogy running throughout his entire career. From his sort of working classicism we can defend the claim of Charles Mullett that the "ancient heroes" of early Rome "helped to found the independent American commonwealth . . . not less than the Washingtons and Lees." ³⁸

Unlike Henry, John Dickinson was a thorough classicist. And a deep student of the law, trained in England at the Middle Temple. The former intellectual *habitus* was subsumed within the latter. Against the usurpations of Crown and Parliament, Americans had no better defender of their "historic" (as opposed to "natural") rights as Englishmen. And for such strictly prescriptive constitutionalism this pillar of the Philadelphia bar found much Roman precedent. In the late 1760's he could write with his beloved

ed Sallust, "*Nihil vi, nihil secessioni opus est*" (No need for force, no need for separation).³⁹ Yet the promise of something more severe is just beneath the surface of his reasonable *Letters of a Farmer in Pennsylvania*: a determination epitomized in the words of Memmius as quoted by Dickinson from *Jugurtha* in his final exhortation to his countrymen: "I shall certainly aim at the freedom handed down from my forebears; whether I am successful or not . . . is in your control."⁴⁰

Indeed, Dickinson quotes as much Roman history as his purposes will allow. Like a good Whig, he insists that all Englishmen have their civil status (and are one) in the law, politically exist through that bond. King and Parliament have authority according to its dictates, not in themselves. Furthermore, the constitution (*prior to and the basis of* statute law) will be kept, even if some of the derivative elements of the trans-oceanic political structure surrender their connection to each other in its behalf. Dickinson's most recent editor is wise to set him over against "the rationalist view" of human justice which maintains that men are meaningfully "born" with "certain rights" on which they can insist, even if not specified in a particular social continuum.⁴¹ That rights—even the most sacred—can be realized only in a specific history and are likely to disappear when the edifice which contains them is fractured, Dickinson never forgets. He invokes the bad examples of James II and the Caesars of Tacitus who, by art, "ruined the Roman liberty" and practiced "dangerous innovation".⁴² And especially in the matters of taxation, standing armies, and court manipulation. Two worlds, but one problem. In England there were, as Dickinson knew, men who denied that either English or Roman political history was of any significance in treating of the North American colonies, men who prated of "indirect representation" and urged the King toward writs of fire and sword. But the Roman colonials, if citizens when they went out to form a new city, were still citizens once there—sometimes better citizens. And likewise American colonials, as secured in their charters binding on both King and Parliament. But he does insist, knowing with Cicero (*Oration for Sex-*

tius) that never to be roused is to forget what honor demands.⁴³ His letters are the essential expression of that great middle body of Americans who continued to think and feel as a kind of Englishman, even when they had come with regret to join with their radical compatriots and insist on independence. And he continued to be the same kind of man as author of the original "Articles of Confederation" and at Philadelphia in 1787.⁴⁴

A discussion of John Adams in this context must be very restricted. For though a great "common law" man like Dickinson and a lifetime admirer of the "balanced" Roman constitution, a devout republican and *therefore* no democrat, his near stoicism causes him at times to plead universal law as a ground for rebellion: to plead as if he were a primitivist and theoretical uniformitarian like Jefferson (at his worst) and Paine, a meliorist with a habit of ignoring historic circumstance. These passages, *solus*, are, however, misleading. Adams pled "higher law" only in the spirit of Burke, as something sometimes visible and partially preserved in "the cake of custom"—and especially after regular English cooking; or as something obvious, like the right of self-preservation.⁴⁵ I identify this part of his politics with those of the not-too-Puritan, not antinomian members of the 1641 English Parliament: and with the authors of the 1689 Declaration of Rights. It was Adams' view that England, once the Stuarts were expelled, became through its constitution "... nothing more nor less than a republic in which the King is ... first magistrate."⁴⁶ And that the situation of Americans changed very little when the King, as administrator of the given law ("a republic is a government of laws, and not of men" alone) failed in his duty, "abdicated", and had to be officially removed.⁴⁷ A republican is what Adams always was, even when loyal to George III.

But as American republican, Adams advocated consistently a "balanced constitution". And what he meant by this familiar language is, by reason of our ignorance of classics, nothing like what we might imagine. Polybius is behind this facet of Adams' position, and also Livy. Particularly Polybius.⁴⁸ But more impor-

tant (and encompassing these Roman instructions) is his view of how the English prescription, the great body of Whig theory, could be applied to the new situation created at Yorktown.⁴⁹ Adams in this respect clearly resembles Dickinson, combining English and Roman constitutionalisms, with the former retaining predominance: combining them in the quarrels before the Revolution; and, once the war was over, continuing with them in the effort to convert the resulting independence into a framework for sustaining a nationality already there. Adams had clearly a more rigorous mind, a more consistent theoretical position than his friend from Delaware and Philadelphia. Yet he is identical with him in refusing to accept Lockean or other rationalist conjectures about men in a presocial state.⁵⁰ For him, a social contract was, if trustworthy, something worked out by a given people: worked out among themselves, over a period of time. Their existence as a people is, however, *a priori*. This is Polybius and Livy. No constitution, even if aimed at balance, could be better as a social bond than one "negotiated", whose development itself was a source of mutual trust among the people whose unity it formalized. Adams understood balance in these terms and, in his *Discourses on Davila* (1791), said so: "While the [Roman] government remained untouched in the various orders, the consuls, senate, and people mutually balancing each other, it might be said, with some truth, that no man could be undone, unless a true and satisfactory reason was rendered to the world for his destruction." With this promise, liberty begins.⁵¹

Even in 1787, Adams' thought began with what was and had been, not with what might be. After the "tyrannical machinations" of George III had been forestalled, his fear was of the process well described by Livy, that by seeking perfect liberty Americans could well discover what real servitude is like.⁵² Devotion to an inherited regime, as in the time-tested constitutions of the states, protecting legitimate holdings in property while securing to all citizens access to the same restricted body of laws, could hope to secure a general assent.⁵³ And if we were to go further with union, we should begin

the process with a foundation in that devotion. Comity would be the result. *Inside* the American configuration Adams struggled to conserve. In the year of the Declaration he could write a friend, "I dread the Spirit of Innovation."⁵⁴ What we often fail to see is that such a dread is what *made* him a rebel and *still* a New England sort of American/Englishman, once rebellion was done. Imbalance through foolish innovation should be expected, in a republic, to draw its support from the lower orders of society, as aggravated by ideologists and crafty demagogues. Not from the senatorial class, Adams' beloved republican gentlemen. And Envy would be the cause. Titus Livius tells us nothing to the contrary. Nor the favorite of Adams' old age, gloomy Sallust. Following their example, he thundered against the "simple, centralizing schemes of Dr. Franklin and Tom Paine", defended the institution of senates, a strong elected executive, and a deference toward law in the conduct of popular assemblies.⁵⁵ And cried out in alarm when certain of his countrymen conflated their own political inheritance with what had in 1789 begun in France.

But the best way to measure the indebtedness of John Adams to the history (and historians) of the Roman Republic is to look outside his published writings and beyond his public career: to the correspondence of his old age, and particularly his exchange with Jefferson. One scholar has observed that "... the greater part of Adams' historical investigations were devoted to studying governments which failed, he believed, because of their unbalanced structure."⁵⁶ This was true of his early preparations in response to the Stamp Acts. And it was true to the end.⁵⁷ Readings in Roman history were, however, only part of a larger, lifetime habit. As an aged man, he could claim that "... classics, history and philosophy have ... never been wholly neglected to this day."⁵⁸ For the repose of his spirit, the support of his judgement, he found these "indispensable".⁵⁹ The *senectutal* epistles prove these words to be no exaggeration.

The Virginian, in contrast, was more Greek than Roman. His studies, like his experience, had made him sanguine. Above all else, Adams found in classics warnings against men in the mass, un-

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restrained by precept or authority, corrupted by flattering politicians. Jefferson (especially in Tacitus, Suetonius, and other authorities on the Empire) saw more of a caution against concentration of power than an admonition to avoid egalitarian preaching, an "excess of words in the city". But finally, in the shadow of sectional conflict over the admission of Missouri as a state, the thought and language of the two old friends/old enemies came together. The end result of the centralizing that began in 1820 was both a concentration of power and triumph for the popular spirit of endless adjuration over "principles": the new founding of Abraham Lincoln, which Adams, as a New Englander, could spot on the horizon long before his Southern counterpart.⁶⁰ The French influence combined, in the years before secession, with the old Puritan montanism to undermine the civility and public spirit necessary to republican cohesion. In their place stood finally the politics of "continuing revolution" and capital letter abstractions, the "Empire of *Equality and Liberty*" foreshadowed in Webster's reply to Hayne.⁶¹ In consequence, the Roman republican teaching as a serious influence was thereafter generally confined to the nomological South. There survived the dream of ordered liberty saluted in the following lines, by an anonymous Charleston Whig of 1769:

Parent of Life! true Bond of Law!
From whence alone our Bliss we draw,
Thou! who didst once in antient *Rome*,
E'er fell Corruption caus'd its Doom,
Reign in a *Cato's* godlike Soul,
And *Brutus* in each Thought controul;
Here, here prolong thy wish'd for Stay,
To bless and cheer each passing Day,
Tho' with no pompous Piles erect,
Nor sculptur'd Stones, thy shrine is deckt;
Yet here, beneath thy fav'rite Oak,
Thy Aid will all thy SONS invoke.
Oh! if thou deign to bless this Land,
And guide it by thy gentle Hand,
Then shall AMERICA become
Rival, to once high-favour'd *Rome*.⁶²

This vision of the politically good I can trace from John Randolph's fulminations against bankers, cities, dole, and expediency (*alieni avidus sui profusus*) to Tom Watson's outcry against "A party for Pompey—A party for Caesar—No Party for Rome."⁶³ And beyond. Until the South came to feel that the heritage of the Republic had become its exclusive possession, even in secession.⁶⁴ But that is another essay.

What then did Rome mean to the original Americans? What counsel did its early history contain? And what must we conclude about our forefathers from their somewhat selective devotion to the Roman analogue?

To begin with, in so far as the original national identity derives from a reading of early Roman history, our first Americans did not see in independence a sharp departure from the identity they already enjoyed. Rather, both of these developments were, above all else, necessities for the protection of an already established society: necessities like those behind Rome's own republican development. "Their respect for [that] past brought them to their rebellious and finally revolutionary posture."⁶⁵ Even in whatever they attempted that seemed new. All of which is another way of saying that *Romanitas* on these shores, to whatever extent that we may demonstrate its presence, is an indication that American Whiggery is (or was) closer to that of Edmund Burke than to the nostrums of Priestley and Fox. And is no relation whatsoever to the "virtue" preached by Robespierre. Burke's view of the ancient European orders transplants rather well in a locally structured commonwealth with no nobility and no established church. Indeed, as Burke himself discovered in conflicts with his King, it is perhaps more consonant with a pious, xenophobic republicanism under a specified tradition *qua* law than with monarchy.⁶⁶ A community of interdependent parts, inseparable and yet distinct, was the natural consequence of the growth of thirteen colonies as separate social, political, and economic units. The war with England had itself given the specific colonies unto themselves a new social maturity and cohesion, and to their citizens a horror of class conflict and internecine strife.

Roman history taught that all of this was natural: a commonwealth “grown”, not made; a definition by history, not by doctrine or lofty intent; and a general recognition, negotiated in the dialectic of experience, that all Americans had together a corporate destiny and would henceforth depend upon each other for their individual liberties. Confederation for liberty: Roman history allowed for that one near-abstraction. But liberty, meaning collective self-determination and dignity under a piously-regarded common law, is a check upon ideology, not a source.⁶⁷ For modern regimes the alternative is the hegemony of an ideal as end, not condition. And the arrangement becomes finally the hegemony of a man, a despotism which makes a noble noise. Between 1775 and 1787, we discovered no new doctrine. We left that to the English. Self-defense was our business. Courage and discipline were displayed. Also self-sacrifice. Furthermore, leaders filled with a public spirit had appeared and had earned the confidence of their compatriots: leaders who would be available to call up, once again, the active virtue which had preserved “the walls of the city”. King John and the Tarquins, Charles I and James II had together made Americans to know what was wrong with “emperors” and with George III.⁶⁸ Once freed of his authority (and his provocations) they would aspire to no overseas dominion, employ no mercenaries, deify no administrator, and neglect no freeholding. Or, at least for a while, they would go from what and where they were, many and one, a culture of families, not so atomistic or commercial as *The Federalist* anticipates they were to become. Not deracinated, they would cherish the emotionally nourishing matrix of the unpoliticized communities to which they were primarily attached. And they would keep the “democratical” component of their position in perspective, tolerating no *Jacquerie* (*vide* Shays’ Rebellion), no divisive feudal appointments—honoring their most deserving citizens with office and good repute, as in history. Their only innovative engagement would be in the creation of new states in the “open” lands to the west—states just like their own!

All of this composition and more our fathers could recognize in the history of Rome, in the “laboratory of antiquity” where lessons

for their not-so-new science of politics seemed unmistakably clear. In between us and these self-evident truths stand the War Between the States and other, subsequent (and derivative) transformations. Plus a legion of historians from the party which triumphed in these "other revolutions". To penetrate their now accepted obfuscations and to see the elder Rome as did the first American citizens is an appropriate undertaking in these years of official self-examination. Appropriate, painful, and surprising.

NOTES

1. Hostility to Plato among colonial republicans was so great that it has puzzled all subsequent scholarship. But it is easily explained: Plato's politics are an *a priori*, theoretical creation, derived not from experience but from high doctrine and propositional truth. See pp. 178-179 of Richard M. Gummere's *The American Colonial Mind and the Classical Tradition* (Cambridge: Harvard University Press, 1963).

2. This attitude toward history as a humane or ethical study was an Augustan commonplace. See for instance H. Trevor Colbourn's *The Lamp of Experience: Whig History and the Intellectual Origins of the American Revolution* (Chapel Hill: University of North Carolina Press, 1965), pp. 21-25; James William Johnson's *The Formation of English Neo-Classical Thought* (Princeton: Princeton University Press, 1967), pp. 31-68; and Daniel J. Boorstin's *The Lost World of Thomas Jefferson* (Boston: Beacon Press, 1960), pp. 218-219.

3. Cicero's *De Republica* was available only in fragments before 1820. But its arguments are suggested in the rest of Tully.

4. Cited in full, with the appended comment which I quote, in *Roman Civilization: The Republic* (New York: Columbia University Press, 1951), edited with an Introduction and Notes by Naphtali Lewis and Meyer Reinhold, pp. 99-111.

5. *The Southern Tradition at Bay* (New Rochelle, N.Y.: Arlington House, 1968), edited by George Core and M.E. Bradford, pp. 98-111.

6. Hyperbolic but indispensable for the study of the full sweep of Roman piety is Fustel de Coulange's century-old *The Ancient City*. I cite the Doubleday Anchor Books edition, New York, 1955, pp. 38-40 and 136, *et passim*. Consider also the *Antiquities* of Varro the Stoic, as represented by Augustine in the *Civitas Dei*.

7. *Roman Civilization*, p. 482 (from *Natural History*, XXXV, 2). Polybius supports this view: *The Histories* (New York: Twayne Publishers, 1966), translated by Mortimer Chambers, with an introduction by E. Badian, pp. 261-262.

8. But not in its essential impulse. Consider, for illustration, Horace's image of life on the Sabine Farm.

9. Plutarch, *Lives of the Noble Grecians and Romans*, translated by John Dryden and revised by Arthur Hugh Clough (New York: Random House, n.d.), p. 999. For support see Cicero's second oration against Verres (*Roman Civilization*, p. 456).

10. R.H. Barrow. *The Romans* (Baltimore: Penguin Books, 1949), pp. 11-14.

11. Tacitus is as often praised by Old Whigs, English and American, as any Roman historian. And his *Germania* has become infamous as a point of departure for various rhapsodies on the need for *gemeinschaft* and the merits of the organic (that is, unphilosophical)

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society. But his republicanism, apart from a few portraits, is too indirect for the purposes of this essay. It is, however, pervasive. See M.L.W. Laistner, *The Greater Roman Historians* (Berkeley: University of California Press, 1966), p. 114; and Michael Grant, *The Ancient Historians* (New York: Charles Scribner's Sons, 1970), pp. 271-305.

12. Plutarch, p. 928. From his life of Cato Minor, expressed by Cicero in response to the reduction by Uticensis, of the abusive orator, Clodius.

13. See Livy, Book XXIV. I employ here the text as translated by Aubrey de Selincourt, *The War with Hannibal, Books XXI-XXX of "The History of Rome from Its Foundation"* (Baltimore: Penguin, 1970), p. 253. See also Laistner, p. 89, on the communal theme in Livy.

14. Sallust, "The War with Jugurtha", xli; I cite the Loeb Classical Library edition, edited by J.C. Rolfe (Cambridge: Harvard University Press, 1921), p. 223. See also Grant, pp. 201-207.

15. Polybius, p. 222. See also p. 193.

16. Grant writes (p. 228) that Livy's "account of the earlier Republic is largely one long narration of traditional Roman virtues."

17. Polybius, p. 229. In support see Livy, Book III, xvii. I cite the Loeb edition, edited by B.O. Foster (Cambridge: Harvard University Press, 1939), pp. 57-61: the speech of Publius Valerius. Also Grant, p. 240, *et seq.*

18. Livy, *The War with Hannibal*, pp. 154-155.

19. *Ibid.*, p. 385.

20. See Livy, Books III and IV; also Joseph M. Lalley, "The Roman Example", *Modern Age*, XIV, (Winter, 1969-1970), 14.

21. I derive here (as did our fathers) from Baron de Montesquieu. See David Lowenthal's edition and translation of *Considerations on the Causes of the Greatness of the Romans and Their Decline* (Ithaca: Cornell University Press, 1968), pp. 91-92.

22. Plutarch, "The Life of Cato Major", p. 428.

23. In this connection I would recommend Arnold J. Toynbee's finest work, *Hannibal's Legacy* (Oxford: The Clarendon Press, 1965); and also Tenney Frank's *Life and Literature in the Roman Republic* (Berkeley: University of California Press, 1956), pp. 19-23.

24. Sallust, "The War with Catiline", xxxvii; p. 63 of the Loeb edition.

25. *Ibid.*, xxxvii; still p. 63.

26. Sallust, "Speech of the Consul Lepidus", iv; p. 387 of the Loeb edition.

27. Sallust, "The War with Catiline", vii; p. 13 of the Loeb edition.

28. Cicero's vision of the social order depended upon his confidence in the "political manners" of the Romans, the force of the "public orthodoxy". Things in this *societas* were attempted in the way of political change only in an accepted fashion, a manner which postulated loyalty to Rome, regardless of personal success, or else the result would be forfeiture of status as citizen. On the difference between *societas* and *universitas* (nomological and teleological regimes) see Michael Oakshott's *On Human Conduct* (London: Oxford University Press, 1975), pp. 199-206. On Cicero see "Cicero and the Politics of the Public Orthodoxy", in *The Intercollegiate Review*, V (Winter, 1968-1969), 84-100, by Frederick D. Wilhelmsen and Willmoore Kendall.

29. Gummere, pp. 119 and 18.

30. *Ibid.*, p. 14.

31. *Ibid.*, p. 18.

32. Johnson, pp. 91-105. Also Howard Mumford Jones' splendid chapter, "Roman Virtue", pp. 227-272 and 96 of *O Strange New World* (New York: The Viking Press, 1964). Jones helpfully includes illustrations of Washington carved as a Roman senator.

33. See Charles F. Mullett, "Classical Influences on the American Revolution", *The Classical Journal*, XXXV (November, 1939), 92-104. Gummere admits (p. 37) that the reformist temper, coming down from Puritanism, worked against the classical inheritance in New England. New England remained a *universitas*, even when Unitarian.

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A more recent study is William Mullen's "Republics for Expansion: The School of Rome" (*Arion*, n.s. III, No. 3 [July-August, 1976], 298-364).

34. William Wirt, *Sketches of the Life and Character of Patrick Henry* (New York: McElrath and Bangs, 1835), p. 31. Henry also read one political theorist, Montesquieu, whose constant text was Livy. See Richard Beeman, *Patrick Henry* (New York: McGraw-Hill, 1974), p. 116.

35. Jay Broadus Hubbell, *The South in American Literature, 1607-1900* (Durham: Duke University Press, 1954), p. 120.

36. Quoted in Kate M. Rowland's *The Life of George Mason 1725-1792* (New York: G.P. Putnam's Sons, 1892), vol. I, p. 169.

37. Gummere, p. 186.

38. Mullett, p. 104. Henry, of course, was not unique in this emulation. And it may have been unselfconscious, the reflex of an intense admiration like that of Charles Lee, when he told Henry, "I us'd to regret not being thrown into the World in the glorious third or fourth century of the Romans" but changed when he could say that his classical republican dreams "at length bid fair for being realized." (Quoted in Gordon S. Wood's *The Creation of the American Republic, 1776-1789* [Chapel Hill: University of North Carolina Press, 1969], p. 53).

39. Gummere, p. 107.

40. P. 84 in *Empire and Nation*, containing "Letters From a Farmer in Pennsylvania" and Richard Henry Lee's "Letters From the Federal Farmer" (Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1962), edited with an Introduction by Forrest McDonald.

41. *Ibid.*, p. xiv.

42. *Ibid.*, pp. 35 and 10.

43. *Ibid.*, p. 71.

44. The best description of this middle party, who made the Revolution possible and then controlled its results (away from Jacobinism) in drawing up the Constitution, is in Merrill Jensen's *The Founding of a Nation: A History of the American Revolution, 1763-1776* (New York: Oxford University Press, 1968). John Dickinson, as their spokesman, went so far as to oppose the Declaration of Independence as both too early and too ambiguous in language. But he accepted the results and went out with his neighbors. Dickinson's greatest influence may have been toward the establishment of a Continental Congress and, in the Constitutional Convention of 1787, in the creation of a United States Senate with two seats for each state.

45. George A. Peck, Jr., editor. *The Political Writings of John Adams* (Indianapolis: Bobbs-Merrill, 1954), p. xxiv of the editor's Introduction.

46. Colbourn, p. 96. Also *The Political Writings of John Adams*, p. 44.

47. Colbourn, p. 87. Adams was a chauvinistic New Englander and therefore blind to the differences between his own legalism and the antinomian, "revealed politics" of Cromwell and other Puritans. He seems not to know that many Erastians followed Charles I. But he is clear about the settlement of 1688-1689.

48. Gilbert Chinard, "Polybius and the American Constitution", *Journal of the History of Ideas*, I (January, 1940), 38-58. See also Richard M. Gummere's "The Classical Politics of John Adams", *Boston Public Library Quarterly*, IX (October, 1957), 167-182 and Zoltan Haraszti, *John Adams and the Prophets of Progress* (Cambridge, Mass.: Harvard University Press, 1952). On the link between the Whigs and Polybius see Zera S. Fink, *The Classical Republicans* (Evanston, Ill.: Northwestern University Press, 1945).

49. Colbourn, p. 102.

50. *The Political Writings of John Adams*, Peck's Introduction, p. xv.

51. Jones, p. 260.

52. Livy, III; p. 121 of the Loeb edition. Also Peck's Introduction to Adams' *Political Writings*, p. xviii.

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53. I refer to his *A Defence of the Constitutions of Government of the United States* (1786-1787). Here and in his early *A Dissertation on the Canon and Feudal Law* (1765). Adams identifies New England as the perfection of the English tradition.

54. Colbourn, p. 87.

55. *The Political Writings of John Adams*, pp. 105, 119, and 132.

56. Colbourn, p. 87.

57. See vol. VI, pp. 12, 43, 86-87, 209, 217, and 243 of Adams' *Works*, the edition of Charles Francis Adams (Boston: Little, Brown, 1850-1856). But the influence of Roman history is evident throughout his political writings. See especially the *Novanglus* (1774-1775).

58. Colbourn, p. 85. By "philosophy" he meant, for the most part, ethics and "political philosophy".

59. Gummere, p. 193.

60. Adams in answering Governor Hutchinson, 1773. Quoted by Colbourn, p. 93. The difference between this paper and the rantings of other Sons of Liberty is instructive. Such radicals, of course, existed. But the Revolution was not finally their show.

61. See Richard Weaver's "Two Orators", *Modern Age*, XVI (Summer-Fall, 1970), 226-242.

62. Hubbell, p. 161. Quoted from the *South Carolina Gazette*. I suspect that the author may have been William Henry Drayton. See Jones, p. 254, for a related passage from Richard Henry Lee.

63. This echo from Sallust's "The War with Catiline", iii, is quoted on p. 164 of Russell Kirk's *John Randolph of Roanoke: A Study in American Politics* (Chicago: Henry Regnery, 1964) and is part of an extended philippic against American declensions from "republican virtue"; Watson's remark seems to come from Cato Minor's orations in Lucan's *Pharsalia*. See C. Vann Woodward's *Tom Watson: Agrarian Rebel* (Savannah: The Beehive Press, 1973), pp. 109 and 353.

64. A good illustration is Major Buchan, the patriarch in Allen Tate's *The Fathers* (Denver: Alan Swallow, 1960).

65. Colbourn, p. 186.

66. Indeed, no society is likely to be as xenophobic as a radically homogenous republic. The only equivalent would be a monarchy uniting strictly patriarchal tribes.

67. See Richard Henry Lee, *An Additional Number of Letters from the Federal Farmer to the Republican* (Chicago: Quadrangle Books, 1962), p. 178. Reprint of the edition of 1788.

68. Wood, pp. 51-52.

THE HERESY OF EQUALITY: A REPLY TO HARRY JAFFA

I

Let us have no foolishness indeed.* Equality as a moral or political imperative, pursued as an end in itself—Equality, with the capital “E”—is the antonym of every legitimate conservative principle. Contrary to most Liberals, new and old, it is nothing less than sophistry to distinguish between equality of opportunity (equal starts in the “race of life”) and equality of condition (equal results). For only those who *are* equal can take equal advantage of a given circumstance. And there is no man equal to any other, except perhaps in the special, and politically untranslatable, understanding of the Deity. *Not intellectually or physically or economically or even morally. Not equal!* Such is, of course, the genuinely self-evident proposition.¹ Its truth finds a verification in our bones and is demonstrated in the unselfconscious acts of our everyday lives: vital proof, regardless of our private political persuasion. Incidental equality, engendered by the pursuit of other objectives, is, to be sure, another matter. Inside the general history of the West (and especially within the American experience) it can be credited with a number of healthy consequences: strength in the bonds of com-

* This essay is a direct response to Harry Jaffa’s “Equality as a Conservative Principle,” *Loyola of Los Angeles Law Review*, VIII (June, 1975), pp. 471-505, which is itself a critique of *The Basic Symbols of the American Political Tradition* by Willmoore Kendall and George W. Carey. Lincoln’s reading of the Declaration of Independence is the central subject of this entire exchange. Jaffa’s piece invites direct comparison with mine.

munity, assent to the authority of honorable regimes, faith in the justice of the gods.

But the equality of Professor Jaffa's essay, even in the ordinary sense of "equal rights", can be expected to work the other way around. For this equality belongs to the post-Renaissance world of ideology of political magic and the alchemical "science" of politics. Envy is the basis of its broad appeal. And rampant envy, the besetting virus of modern society, is the most predictable result of insistence upon its realization.² Furthermore, hue and cry over equality of opportunity and equal rights leads, *a fortiori*, to a final demand for equality of condition. Under its pressure self-respect gives way in the large majority of men who have not reached the level of their expectation, who have no support from an inclusive identity, and who hunger for "revenge" on those who occupy a higher station and will (they expect) continue to enjoy that advantage. The end result is visible in the spiritual proletarians of the "lonely crowd". Bertrand de Jouvenel has described the process which produces such non-persons in his memorable study, *On Power*.³ They are the natural pawns of an impersonal and omniscient Leviathan. And to insure their docility such a state is certain to recruit a large "new class" of men, persons superior in "ability" and authority, both to their ostensible "masters" among the people and to such anachronisms as stand in their progressive way.

Such is the evidence of the recent past—and particularly of American history. Arrant individualism, fracturing and then destroying the hope of amity and confederation, the communal bond and the ancient vision of the good society as an extrapolation from family, is one villain in this tale. Another is rationalized cowardice, shame, and ingratitude hidden behind the disguise of self-sufficiency or the mask of injured merit. Interdependence, which secures dignity and makes of equality a mere irrelevance, is the principal victim. Where fraternity exists to support the official structure of government, it can command assent with no fear of being called despotic or prejudiced in behalf of one component of the

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society it represents. But behind the cult of equality (the chief if not only tenet in Professor Jaffa's theology, and his link to the pseudo-religious politics of ideology) is an even more sinister power, the uniformitarian hatred of providential distinctions which will stop at nothing less than what Eric Voegelin calls "a reconstitution of being": a nihilistic impulse which is at bottom both frightened and vain in its rejection of a given contingency and in its arrogation of a godlike authority to annul that dependency.⁴ As Robert Penn Warren has recently reminded us, distinctions drawn from an encounter with an external reality have been the basis for the intellectual life as we have known it: prudent and tentative distinctions, but seriously intended.⁵ With the reign of equality all of that achievement is set at peril.

II

So much in prologue. Concerning equality Professor Jaffa and I disagree profoundly; disagree even though we both denominate ourselves conservative. Yet this distinction does not finally exhaust or explain our differences. For Jaffa's opening remarks indicate that his conservatism is of a relatively recent variety and is, in substance, Old Liberalism hidden under a Union battle flag. To the contrary I maintain that if conservatism has any identity whatsoever beyond mere recalcitrance and rationalized self-interest, that identity must incorporate the "funded wisdom of the ages" as that deposition comes down through a particular national experience. Despite modifications within the prescription of a continuum of political life, only a relativist or historicist could argue that American conservatism should be an utterly unique phenomenon, without antecedents which predate 1776 and unconnected with the mainstream of English and European thought and practice known to our forefathers in colonial times. Jaffa of course nods toward one face of Locke and, by implication, the chiliastic politics of Cromwell's New England heirs.⁶ And I have no doubt that he can add to this hagiography a selective (and generally misleading) list

of earlier patrons of his view. I cannot in this space encounter the full spectrum of Straussian rationalism. To specify what I believe to be lacking in Jaffa's conservative model (and wrong with the intellectual history he uses in its validation), it will serve better for me to concentrate first on how I read the Declaration of Independence and then append, in abbreviated form, my estimation of Lincoln's lasting and terrible impact on the nation's destiny through his distortions upon that text. This of course involves me incidentally in Jaffa's quarrel with Kendall-Carey and *The Basic Symbols of the American Political Tradition*. But it must be understood that my object is not to defend these worthy gentlemen. To the contrary, my primary interest is in a more largely conservative view of the questions over which they and Professor Jaffa disagree. And therefore, incidentally with the operation and quality of my adversary's mind which lead him to conclusions so very different from mine. With those concerns I propose to organize and conclude my remarks.

III

Professor Jaffa begs a great many questions in his comment on the Declaration. But his greatest mistake is an open error, and supported by considerable precedent in both academic and political circles. In truth, his approach is an orthodox one, at least in our radical times. I refer to his treatment of the second sentence of that document in abstraction from its whole: indeed, of the first part of that sentence in abstraction from its remainder, to say nothing of the larger text. Jaffa filters the rest of the Declaration (and later expressions of the American political faith) back and forth through the measure of that sentence until he has (or so he imagines) achieved its baptism in the pure waters of the higher law. He quotes Lincoln approvingly that "the doctrine of human equality was 'the father of all moral principle [amongst us].' " Jaffa sets up a false dilemma: we must be, as a people, "committed" to Equality or we are "open to the relativism and historicism that is the theoretical

ground of modern totalitarian regimes." The Declaration is, of course, the origin of that commitment to "permanent standards". And particularly the second sentence. The trouble here comes from an imperfect grasp of the Burkean calculus. And from the habit of reading legal, poetic, and rhetorical documents as if they were bits of revealed truth or statements of systematic thought. My objections derive principally from those anti-rationalist realms of discourse. For I assume, with Swift, that man is a creature capable of reason, *capax rationis*, but not a rational animal. Therefore the head and heart must be engaged together where instruction is attempted. The burden of poetry and rhetoric is inherent in the form through which the idea is embodied: its meaning *is* its way of meaning, not a discursive paraphrase. And it achieves that meaning as it unfolds. According to this procedure we are taught from of old that the soul may be composed, the sensibility reordered. Reason enters into this process with modesty and draws its sanction for whatever new truth it may advance from cooperation with sources and authorities that need produce no credentials nor prove up any title with the audience assumed. For in poetry as in law and rhetoric all matters are not in question. There is a prescription, or something equivalent to what Burke calls by that name. And usually a theology to channel and gloss the prescript. Tropes and figures, terms weighted more or less by usage, norms of value configured and dramatic sequences of associated actions discovered through an unbroken stream of place and blood and history operate in this mode of communication as something logically prior to the matter under examination. And likewise the law, especially where the rule is *stare decisis*. Where myth or precedent or some other part of the "wise prejudice" of a people is presupposed and identity therefore converted into a facet of ontology, a providential thing ("inalienable" in that word's oldest sense, not to be voted, given, or reasoned away), there is nothing for mere philosophy to say. And that *philosophe* abstraction, political Man, who once theoretically existed outside a social bond, nowhere to be seen. As a wise man wrote, "Where the great interests of mankind are concerned

through a long succession of generations, that succession ought to be admitted into some share in the councils which are so deeply to affect them.”⁸ For the “moral essences” that shape a commonwealth are “not often constructed after any theory: theories are rather drawn from them”—the natural law, made partially visible only in the prescription, but made visible nonetheless.⁹

IV

To anyone familiar with English letters and the English mind in the seventeenth and eighteenth centuries, the Declaration of Independence is clearly a document produced out of the *mores majorum*—legal, rhetorical, poetic—and not a piece of reasoning or systematic truth. No sentence of its whole means anything out of context. It unfolds *seriatim* and makes sense only when read through. Furthermore, what it does mean is intelligible only in a matrix of circumstances—political, literary, linguistic, and mundane. Nevertheless, no one trained to move in the rhetorical world of Augustan humanism would take it for a relativistic statement any more than they would describe Dryden’s *Religio Laici*, Addison’s *Cato*, Johnson’s *Rasselas*, or Burke’s *Reflections on the Revolution in France* in that fashion.¹⁰ Jaffa revives the error of his master, Leo Strauss, in speaking of the bugbear historicism and of “mere prescriptive rights”.¹¹ For it is in our day the alternatives which carry with them a serious danger of the high-sounding despot. Radicals (to use his term, meaning the Liberals who see in politics a new “Queen of the Sciences” and employ a sequence of private revelations to exalt her condition) believe in a “higher law”—have done so at least since the politics of secularized Puritanism first appeared in European society.¹² Even Marxists finally worship the demiurge of history—and rest the remainder of their argument upon that authority. And the goddess Reason is still with us, available to sanction whatever her hand finds to do in erasing all that survives from what Peter Gay rightly labels the mythopoeic vision.¹³ I agree with Professor Jaffa concerning the danger of

relativism. A Christian must. And also about behavioristic political science. Such study is description only, or else mere manipulation. But, hunger for the normative aside, we must resist the tendency to thrust familiar contemporary pseudo-religious notions back into texts where they are unlikely to appear. Any Englishman of 1776 (colonial or not) should not be expected to construe natural rights so rigorously as Justice Black—except perhaps for hyperbole in argument. In between our day and that first July 4 stand a number of revolutions, especially the French. And also two hundred years of liberal and radical thought. We are bemused by the spectre of Locke (an authority to some of the revolutionary generation, but read loosely and in the light of Sir Edward Coke and William Petyt, and the 1628 Petition of Right, and the 1689 Declaration of Rights).¹⁴ The legacy of English common law is lost upon us. And in the process we have forgotten, among other things, that Edmund Burke is our best guide to the main-line of Whig thought: *not Locke or Paine, or even Harrington, but Burke*. It is, of course, a truism that all colonial Americans did their political thinking inside the post-1688 Whig legal tradition.¹⁵ Some years ago Professor Jaffa attempted to counter this line of objection to his Lincolnian construction of the Declaration by setting Paine and Locke (plus an irrelevant bit of Blackstone) upon Daniel J. Boorstin's excellent *The American: The Colonial Experience*. But in so doing he only evaded his antagonist and obfuscated the question of what is typically Whig and behind our "revolution".¹⁶ For Locke is not so consistent a source of equal rights as Jaffa would lead us to believe. Indeed, that worthy theorist of liberty was an eager part to the creation of a slavocracy in South Carolina.¹⁷ And on occasion he justified the peculiar institution with nothing more sophisticated than an appeal to race or right of conquest.¹⁸ Blackstone, for his part, was a high Tory and a poor sponsor for equality of any sort. And Paine relates to very little that became American in our Constitution of 1787. Recent scholarship on early American history has, by and large, exhibited an anachronistic tendency to ignore all patriot utterances that do not sound like Locke in his highest flights of freedom or Paine before

the Mountain: like the Whig "Left", in other words.¹⁹ They have ignored the problems in logic set up by "all men are created equal" when understood as one of Lincoln's beloved Euclidian propositions and the larger problems for libertarians determined not to call for equality of condition when they start from such a postulate.²⁰ Along with the political philosophers they have approached the task of explication as if the Declaration existed *sui generis*, in a Platonic empyrean.²¹ A gloss upon what transpired in a real (i.e., intellectually "messy") convention in a real Philadelphia seems not to interest these sages: what with reason could be expected to occur.²² With a non-Lockean Whig machinery (and as a practicing rhetorician) I will attempt to draw the inquiry down toward such probabilities.

V

Contrary to Professor Jaffa, it is my view that the Declaration of Independence is not very revolutionary at all. Nor the Revolution itself. Nor the Constitution. Only Mr. Lincoln and those who gave him support, both in his day and in the following century. And the moralistic, verbally disguised instrument which Lincoln invented may indeed be the most revolutionary force in the modern world: a pure gnostic force.²³ The Declaration confirms an existing state of affairs, even in its announcement of a break with George III. For the colonies existed as distinctive commonwealths with (and out of) English law. Yet they were English with a difference. It required only a fracturing of spiritual bonds that it be made official. In the spring and summer of 1776 things came to a head. As Jefferson wrote, a British army was descending upon Long Island: an army bent on putting an end to petitions, inquiries, declarations, and all such irritants. The King had declared the members of the Continental Congress rebels, without the law. And likewise those who thought themselves represented by that body. No security from deportation for trial, summary execution and confiscation were the alternatives to unconditional submission and allegiance outside the law.

Rhetorical criticism begins with a careful description of circumstances antedating composition.²⁴ For without that information well established, the meaning of language is uncertain; and a piece of literature may be treated as if it had been prepared only for the gods. Connection of a document with a set of writings made and/or exchanged before or after its appearance is certainly such necessary information. There is no Declaration apart from it. Effacing himself, Thomas Jefferson wrote what completed a conversation concerning the law which had gone back and forth across the Atlantic for many years before exhausting its purpose. Everything in this sequence appeals to the *consensus gentium* of sensible men (common reasonableness but not philosophy) and to English law. James II had set himself outside that rule, using the dispensary powers to invent a new equality of rights. This usurpation resulted in a royal "abdication" and a new king who promised to uphold the charters and ancient laws and thus to preserve to Englishmen and their posterity the rights they had inherited through a providentially blessed history. This was the common understanding of that period. It is implicit in the dialogue between Philadelphia and Whitehall and in the antecedent quarrel between the Crown and various colonial assemblies after the Stamp and Declaratory Acts and the Albany Congress. The American "parliament" first convened in September of 1774 and soon issued its "Declaration and Resolves of the First Continental Congress, October 14, 1774". Even there it is unmistakably clear that a composite identity is addressing a related composite identity, that the mode of address is forensic (determining praise or blame between respective parties in dispute over the meaning of a "given" phenomenon), and that the point of reference is not divine revelation or a body of doctrine maintained according to the precepts of philosophy, but rather a wisdom inherited as prescription, to be applied reasonably, but not in *Reason's* name. This particular Declaration makes it plain that Englishmen are in dispute with Englishmen, groups with groups, and on English grounds. The colonial charters set up this situation. At law they connect the colonies to a paternal source, even while they set them apart. They create an ambiguity in relations with the

English parliament and the independent reality of other governments. And they leave law and king and common enemies to hold the mix together.²⁵

In their first declaration we learn that the remonstrants are entitled to "life, liberty and property"; that these basic rights come from their ancestors (God perhaps acting through them); that removal over the sea can involve no alienation of such inherited rights; that such alienation is now proposed by way of taxation *and by the machinery of enforcing that tax*; and, finally, that kindred offences against "immunities and privileges granted and confirmed" by royal charters and "secured by their several codes of provincial law" are in prospect. Here and in the later (and similarly argued) "Declaration of the Causes and Necessities of Taking up Arms, July 6, 1775", we can recognize the lineaments of a position finally developed in July of 1776. And also a line of thought coming down directly from the great Charter of 1689—or even more remotely from Bracton and Fortescue. The king is the king, the subject the subject, only within the law. The American colonies are by blood and law part of the English *res publica*, set apart from the old Island Kingdom by England's destruction of that organic relationship. To repeat, it is well to remember that the king declared them "rebels" (Prohibitory Acts, August 1775) well before they had accepted that title for themselves. As they insist, it is for no "light or transient causes" that they make his appellation official. Their charters have become mere paper. By virtue of relocation across the seas they have been defined as alienated Englishmen, without security even in such fundamental matters as life, liberty, and the fruits of their labors. And all men recognize these rights as being the precondition of submission to any government. Their fathers had, of course, grown violent over much smaller affronts. But the "authors" of the Declaration are determined to keep within the law and appear as unusually conservative men. Only when the king denies them all representation, asserts his right to bind them *collectively*, to seize their goods *collectively*, to quarter an angry army upon them, and to punish their entreaties that he restrain his servants to observe the

Bill of Rights—only then will they close with a last “appeal from reason to arms”.

VI

We are now prepared to ask what Mr. Jefferson and his sensible friends meant by “all men” and “created equal”. Meant together—as a group. In rhetoric it is a rule to ask how the beginning leads through the middle to the end. If end and middle consort well with one another, if they point in one direction, that agreement defines what may be discovered in between.²⁶ The last three-fourths of the Declaration (minus the conclusion, its original draft) is a bill of particulars.²⁷ The king, their only acknowledged link with England) has decapitated the body politic and hence is no longer king on these shores. The law/prescription cannot otherwise be preserved. And these men intend such a preservation. Something in existence declares itself in possession of “honor” and “sensible of the regard of decent men”, prepared to draw a new charter out of those it possesses, to act as an entity in forming a confederal government. But first these commonwealths must file an official bill of divorcement, designed to the pattern of a countersuit in an action already initiated on the other side. The generation of a new head for this body is not yet, but will, we can assume, present no problem when a necessity for its creation is made explicit.²⁸

The *exordium* of the Declaration begins this appeal with an argument from history and with a definition of the voice addressing the “powers of the earth”. It is a “people”, a “we” that are estranged from another “we”. The peroration reads the same: “we”, the “free and independent states”, are united in our will to separation—and prepared to answer to high and low for that temerity. They act in the name (and with the sanction) of the good people whose several assemblies had authorized their congregation. This much formally. No contemporary liberal, new or old, can make use of that framework or take the customary liberties with what is contained by the construction. Nor coming to it by the path

I have marked, may they, in honesty, see in "created equal" what they devoutly wish to find. "We", in that second sentence, signifies the colonials as the citizenry of the distinct colonies, not as individuals, but rather in their corporate capacity. Therefore, the following "all men"—created equal in their right to expect from any government to which they might submit freedom from corporate bondage, genocide, and massive confiscation—are persons prudent together, respectful of the law which makes them one, even though forced to stand henceforth apart: equal as one free state is as free as another.

Nothing is maintained concerning the abilities or situations of individual persons living within the abandoned context of the British Empire or the societies to be formed by its disruption. No new contract is drawn. Rather, one that exists is *preserved by amputation*. All that is said is that no component of a society can be expected to agree, even though it is part of that society by inheritance, that it is to be bereft of those securities that make life tolerable simply by geographical remoteness. And, if even the Turk and infidel would not as a people submit to a government such as George III proposes to impose through Lord Howe's army, how can Englishmen be expected to agree to that arrangement? So much is "obvious" to everyone, in other words, "self-evident". Thus even if the law of nature and of nations is drawn into our construction of "endowed by their Creator", what is left to be called "inalienable" with respect to American colonials and demonstrative of a certain minimal equality of rights in their collectivities is not so much. What happens in the remainder of the Declaration, following sentence two, is even more depressing to the contemporary Jacobin who would see in the new beginning a departure from the previous political history of Western man. Note particularly the remarks concerning the part played by the king's servants in encouraging a "servile insurrection", the xenophobic objections to the use of foreign mercenaries, and the allusion of the employment of savages as instruments of royal policy. Note also Jefferson's ironic reference to "Christian Kings" and anger at offences to the "common

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blood". These passages draw upon a received identity and are not "reasonable" in character. Certainly they do not suggest the equality of individual men. But (and I am sure that Professor Jaffa will agree with me on this), even though racist, xenophobic, and religious assumptions have no place in the expression of philosophic truth, they can readily operate in an appeal to prescriptive law. And therefore, I say, in our Declaration of Independence.

VII

Though I agree with Kendall/Carey that there is a distance between the Declaration and the Constitution of 1787, and that silence on equality in the latter reflects a conscious choice, I agree also with Professor Jaffa that the two are not in conflict. The Constitution, like the Articles of Confederation before it, built a structure of common government (to handle all difficulties made by being one and thirteen) upon a common legal inheritance, common origins, and an established unity of purpose. It is a limited contract, resting on an external and prior bond of free and independent states, perfecting or improving their union.²⁹ It *does not* abrogate what it rests upon. The Declaration was a necessary prologue to its adoption. But, in logic, the Declaration is not implicit in the Constitution except as it made possible free ratification by the independent states. In truth, many rights are secured under the Constitution that are not present in the Declaration, however it be construed. Yet not equal voting rights in state or federal elections. Or economic rights in taxation. Or rights for women. Or even equal footing for various religions—or species of irreligion. To say nothing of slaves. All of this is well known. But, if we reasoned as do some gifted scholars, it might be maintained that the Constitution takes us even further away from equality for slaves than does the Declaration.³⁰ For in Article I, Section 9, provision is made that no law shall be passed by Congress to restrict the slave trade prior to 1808. Slavery exists by acknowledgement of the same document. Yet it encourages that there be more slaves in the Republic than are

present in 1787. More in a proportion that twenty-one years can be expected to provide. Hence this provision can be described in logic as presenting Negro slavery as a positive good. For reasons of history I do not insist upon this commentary. The evidence of what lies behind the text suggests another view.³¹ And for the same reasons I cannot follow the practical advice of the late Everett McKinley Dirksen and "get right with Lincoln".³²

VIII

It would be unreasonable for me to attempt to develop in this essay all that I wish to say in objection to the politics of Abraham Lincoln. For it is a great deal and will perhaps involve some years. Therefore I must raise only my primary objections, most of them proceeding from Lincoln's misunderstanding of the Declaration as a "deferred promise" of equality. I am of course close to the late Professor Kendall in these matters and have learned much from him and from Professor Carey.³³ For one thing, I agree with those gentlemen that Lincoln's "second founding" is fraught with peril and carries with it the prospect of an endless series of turmoils and revolutions, all dedicated to freshly discovered meanings of equality as a "proposition". I do not, however, look so much as they do to New England. It is not my preference for a colonial precedent to the national identity.³⁴ The millenarian infection spread and almost institutionalized by Lincoln (and by the manner of his death) has its impetus from that "other Israel" surrounding Boston.³⁵ And its full potential for mischief is yet to be determined. What Alexander Stephens called Lincoln's "religious mysticism" of Union, when combined in "cold, calculating reason" to the goal of "equal rights" and an authoritarian (that is, irrational) biblical rhetoric, constitutes a juggernaut powerful enough to arm and enthrone any self-made Caesar we might imagine: even an unprepossessing country lawyer from Illinois. For by means of that mixture and solution a transfer of authority and energy is effected, from the Puritan dream of a New Jerusalem governed by an elect to the

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manifest destiny of American democracy led by keepers of the popular faith. Both are authorized from on High to reform the world into an imitation of themselves—and to lecture and dragoon all who might object. Both receive regular intimations of the Divine Will through prophets who arise from time to time to recall them to their holy mission. And both operate from that base to paint all prospective opposition in the darkest of colors, the rhetoric of polarity being a fundamental correlative of all genuinely Puritan activity, with no room for shadings in between and no mercy for the wicked.

This is, of course, not to minimize the role played in Lincoln's rise to power by the tireless "engine" of his ambition. Nor his political gifts—for which I have an ever-growing admiration. As is announced obliquely in the "Address Before the Springfield Young Men's Lyceum, 1838", Lincoln was, very early, touched by a Bonapartist sense of destiny. His papers (all nine volumes, plus a recent supplement) reflect a steady purpose, an inexorable will to rise, to put his stamp upon the world.³⁶ Yet there was always another side to his nature—glum, ironic, pessimistic, self-deprecatory: in a word, inscrutable. It has deceived and puzzled many. Yet, as is ordinary in a Puritan, this meandering reflected private doubt of the wisdom behind personal choices and (perhaps) the status of motives which directed him toward their enactment: self-doubt, but not doubt of the ideals. And he knew how to cure the ailment—by "striving to finish the work". He had his ends in mind, his religion of Union *in* Equality, but he left it to the "providential" flow of history to carry them to realization. However, after 1854 he condescended to give that flow a little help.

The Kansas-Nebraska Act *made* the political career of Abraham Lincoln, opened the door for the "Reign of Reason", made it possible to put behind the "living history" of the revolutionary generation ("oaks", an organic image), and provided for an opportunity to roll out the big guns of priestly language to give what he meant by "freedom" that "new birth" he came to speak of at Gettysburg. He played with consummate skill the cir-

cumstances of free-soil reaction in '54 and then the tumult surrounding the campaigns of '58 and '60. Nor are there many scholars who do not find some mystery or subtle craft in his first months as President, to say nothing of his subsequent conduct. But that story, as I read it, is a large book—larger than Professor Jaffa's. Suffice it to say that Lincoln was indeed a man whose "policy was to have no policy."³⁷ He loved to quote from *Hamlet* that "there is a divinity that shapes our ends,/Rough-hew them how we will."³⁸ And from the total pattern of his conduct we can extract the following formula: Wait, set up or encourage pressure, then jump, and call it God. The original behind this procedure could be any one of a dozen historic tyrants, all of whom announced a noble purpose for their acts. But when the pattern is encapsulated by the high idiom of Holy Scripture (the authority of which no man can examine), the Anglo-Saxon prototype emerges as Oliver Cromwell, the Lord Protector. And in searching for what is significant in that analogy, the logical point of departure is the House-Divided speech to the Illinois Republican convention of June, 1858.

IX

Lincoln's political gnosticism does not come to a head in the House-Divided speech, and does not begin there. For even in the Springfield Lyceum address (made when he was twenty-nine), he concludes on a Puritan note: Let us refound the Union, and "the gates of hell shall not prevail against it." The new founder, having propped up the temple of Liberty/Equality on the solid pillars of "calculating reason", will therefore be, in relation to the powers of evil (i.e., those who do not care for the arrangement) as was the faith of Peter to the Christian church after its foundation. And God is thus, by implication, the security for the quasi-religion of Equality. In a similar fashion Lincoln finds God as a verification for his rectitude as President in his address to Northern moderates, men who loved the old "divided" house, which we find in his Second

Inaugural. Here is the heresy of a "political religion" at the beginning of Lincoln's political career, and also at its end. But one prudent shift is observable. Except for an occasional mention of "propositions" or their equivalent, the debt to European rationalism (the source of Lincoln's puzzling theological heterodoxy), fades into the background once Honest Abe appears on the center of the national stage in Peoria, Illinois (October, 1854). And in the opposite direction the biblical element grows to be more and more dominant after 1858. But we should not infer from this that Lincoln's design changed after he got the Republican nomination against Douglas. Only his perception (drawing from the abolitionists) of the proper instrument for its execution.

The House-Divided speech was, beyond any question, a Puritan declaration of war. And therefore also Lincoln's election on the basis of its contents as transcribed in the Republican platform of 1860. A Lincoln admirer, Don E. Fehrenbacher, in his *Prelude to Greatness: Lincoln in the 1850's*, calls it "Garrisonian".³⁹ The South saw it that way, as did much of the North. And neither forgot those words:

A House Divided against itself cannot stand. I believe this government cannot endure, perpetually half *slave* and half *free*. I do not expect the Union to be *dissolved*—I do not expect the house to *fall*—but I *do* expect it will cease to be divided. It will become *all* one thing, or *all* another.

Yet we should not abstract the speech from the intellectual milieu to which it belongs. By means of his political manipulation, Lincoln, in the words of his one-time friend, Alexander Stephens, "put the institution of nearly one-half the states under the ban of public opinion and national condemnation." And, continued Stephens, "this, upon general principle, is quite enough of itself to arouse a spirit not only of general indignation, but of revolt on the part of the proscribed."⁴⁰ Other people in these days made noises like Lincoln. After 1854 they got a good hearing. One of them, old John Brown, received beatification from the Northern newspapers which sup-

ported Mr. Lincoln in 1860. What this juxtaposition signified, despite certain cluckings of disapproval among Republican stalwarts, no one could mistake.

Of course the central motif of the House-Divided speech, as quoted above, echoes the Bible (Mark 3:25): Christ speaking of the undivided hosts of Satan.⁴¹ Lincoln's authority is thus, by association, elevated to the level of the hieratic. But he adds something to the mixture. The myth that slavery will be either set on its way to extinction by an official gesture on the part of the federal government or else all states will eventually become slave-states establishes a false dilemma, describes a set of conditions which, once fixed in the minds of his free-soil audience, was certain to create in them a sense of alarm. Thus he participates in what Richard Hofstadter calls the "paranoid style" in politics.⁴² Fear of the slave power (Southern political and economic domination) and racist hostility to the idea of massive Negro influx, free *or* slave, into the North made predictable that one of these alternatives would be perceived as intolerable—and we can guess which one. Thus the size of the Republican Party might be augmented from the ranks of persons who despised Abolition and all its works.

For Lincoln to say after 1858 that the Constitution and the laws were sacred to him, that he would "preserve" the "old Union of the Fathers", is mere window dressing. For to argue that your enemy is evil incarnate (the burden of his rhetoric), in league with Satan, and then add that you respect him and his legal rights is to indulge in pietistic arrogance—as Alexander Stephens specified in the passage I quoted just above. Jaffa confuses matters no end in maintaining that Lincoln addressed a real danger in his imaginary "division". As the South perceived the question, the real issue in Kansas and Nebraska was whether or not there could be a federal policy on the "morality" of its conduct in any connection not covered by the original federal covenant: whether they could stay under the gun.

For houses are always divided, in some fashion or another. And, no doubt, should slavery be gone, some new infamy was bound to be

discovered by the stern examiners whose power depends upon a regularity in such "crusades". A law prohibiting slavery in the territories, in that it affected the ability of a new state to grow to maturity as a child of the total Union, would define the South as outside of that communion. Furthermore, it would set in motion a chain of circumstances that could be used against the region where antinomian morality could be read into law—could touch slavery or any other "peculiarity", unless a Constitutional amendment (requiring a three-fourths vote of the states) existed to protect it. A Union of this sort was not the old Union. Nor was its issue, a Union by force—in 1865 or *now*. Whatever the intent of armies in blue, it could not be the same—not the contract ratified by all the states who were party to it. Rather, it involved Lincoln's worship of the law as the Constitution *with the Declaration drafted into (and over) it*—Lincoln's Declaration: and therefore (*vide supra*), no worship of the law whatsoever, but instead devotion to perpetually exciting goals, always just beyond our reach. Thus, under the aegis of a plurality president, the principle of assent is put aside for the sake of an idea (read ideology) which only a small minority of Americans could be expected to approve, either in 1860 or today. And the entire project accomplished by rhetoric—Kendall's "magic". On the record of American history since 1858, Lincoln stands convicted as an enemy of the "founding".⁴³ Which is to say, as our new Father—even though many of us still refuse to live in the cold uniformitarian temple he designed.

Of course military resistance to radical Union (i.e., statism covered by a patina of law) ended in 1865. Lincoln saluted these developments at the beginning of his second term. And I must conclude my remarks on Lincoln's politics with some observations on that address. His conduct in using the presidential powers has been treated to my satisfaction by Gottfried Dietze.⁴⁴ What that amounts to is the creation of an Eastern priest/king—an epideictic personage such as we hear in the voice at Gettysburg. Speech and deeds together did change the country—and in respects more important than the abolition of Negro slavery: together opened the

door to portentous changes that finally touch even liberty.⁴⁵ The argument of this essay is, in sum, that what Lincoln did to preserve the Union by expanding and enshrining equality left the prescription of the revolution of law in our national beginning and the “unwritten constitution” of our positive pluralism very much in doubt. Such was his purpose. But (and I again repeat) this plan is something which he concealed until he prepared the Second Inaugural—where in victory he became a scripture in himself.

X

There is of course a clear conflict between the Cooper Union speech, the First Inaugural, Lincoln’s letters of the time, and the posture Lincoln assumed a few weeks before Lee’s surrender. If we would discover in Father Abraham the “crafty Machievel”, the conflict between his assent to a constitutional amendment making slavery “perpetual” where established and the House-Divided speech is our point of departure. But the Lincoln who kept Kentucky and Missouri from secession is hard to penetrate. It is wise to assume that he followed the times. For it cannot be demonstrated that he ever really attempted to pacify Southern anxieties without reconstituting the Republic. Certainly he wanted no peace on any grounds but unconditional surrender. And in 1865, he looked back on his five years as national leader, “scanned the providences”, and “found himself approved”.

When seen in the context of his career after 1858 and within the pattern of a lifetime of deliberate utterances, Lincoln’s Second Inaugural turns out to be something very different from what most Americans have believed it to be: a completion of a pattern announced in the House-Divided speech, unfolded in its fullness at Gettysburg, and glossed in a letter to Thurlow Weed written just before his death. Historically, the misconception of this performance may be attributed to a disproportionate emphasis upon the final paragraph of the Second Inaugural treated (once again) as if it had an independent existence outside the total document. Further-

more, what Lincoln means by “malice toward none” and “bind up the nation’s wounds” is, even within this single paragraph, modified beyond recognition by “as God gives us to see the right”. For he means here revelation, not conscience. Americans are so accustomed, since Lincoln’s time, to a quasi-religious rhetoric in their public men that the combination has passed without notice for a century and more. But to discover its full meaning we must look up into the body of the speech. There it becomes clear what Lincoln is about behind his mild forensic tone.

Said another way, what I here contend is that the attribution of his own opinions to an antinomian revelation of divine will as regards America’s political destiny is more completely and intensively visible in this particular Lincoln document than in any other. For what he does in the Second Inaugural is to expand the outreach of his rhetorical manicheanism beyond the limits made familiar to us in a thousand expressions of piety toward the Union (and most particularly at Gettysburg) to include not only his obviously beaten enemies in the South but also all those who accepted the Union as it had existed from the Founding until 1860. Indeed, the targets of his rhetoric on this occasion are all moderate Unionists who did not aforesometimes recognize, as did their prophet for the day, the necessity for a greater perfection in their bonds. The war was long, says Father Abraham, not simply because the rebels were wicked but furthermore because many of their adversaries were reluctant. In the letter to Weed (March 15, 1865) Lincoln observes, in speaking of the unpopularity he expects to be the fate of the remarks in question, that “men are not flattered by being shown that there has been a difference of purpose between the Almighty and them. To deny it, however, in this case, is to deny that there is a God governing the world”.⁴⁶ Since no Southerners were present to be offended by the Second Inaugural, and since Lincoln’s teaching in that address refers chiefly to those who had been patient with the divided house, it is evident that his targets in interpreting long war and heavy judgement are those who did not see *before secession* the necessity for conflict. How this reading of the American teleology

could be expected to bind up wounds in any conventional sense is difficult to determine. But the end result is to give Lincoln a rhetorical upper hand he had not sought at any point in his presidency and to prepare him to do whatever he means by "finish the work". It is to leave him, finally, alone as the agent of his master, beyond the most ultra-Republicans as an instrument of providence and with an authority few mortal men have ever aspired to hold in their hands. Death confirmed him (or rather, his design) in that condition. Consider for an illustration Edward M. Stanton's words after reading the Gettysburg Address to an 1868 political audience in Pennsylvania: "That is the voice of God speaking through the lips of Abraham Lincoln. . . . You hear the voice of Father Abraham here tonight. Did he die in vain?"⁴⁷ Such politics are beyond reason, beyond law, though they may embody a rationalist objective. They are also Jaffa's model—from authority and passion. And with consequences I shall now consider.

XI

"Style," Sir Herbert Read once observed, "is the ultimate morality of mind." By style I would understand him to mean all the elements that go into the composition of a piece of rhetoric, its structural elements as well as its textural; and, in examining the "style" of this particular essay, I find an extraordinary laxity—which suggests that Professor Jaffa is not at his best. Indeed, I can hardly recognize here the consummate and ethical rhetorician of *Crisis of the House Divided*, a work which I obviously admire—though from a certain distance. The argument of this later essay is loose and meandering, like some ancient river that is constantly winding back on itself. Lincoln as a young legislative candidate once advocated (like a good, money-minded Whig) the straightening of such rivers by cutting off the neck of the loops. In closing, I shall attempt to do the same for Mr. Jaffa's argument, if only to indicate the tortuous nature of the "moral" impulse which lay behind its composition.

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In the first place, as my metaphor suggests, this is an old river, an ancient argument which need not be developed again in detail since everyone is familiar enough with its tenets (i.e., the equation of the social-contract theory with some theory of equality). What is new in this lengthy diatribe is no more than the ostensible targets of Professor Jaffa's attack, Kendall and Carey. And indeed they could be a valid point of departure for an egalitarian like Professor Jaffa, since Kendall and Carey do define the true American political tradition as both conservative *and* hostile to Equality.

But unfortunately Kendall and Carey do not raise their standard on that spot of polemical ground where Professor Jaffa would like to do battle. They do not become overly preoccupied with slavery; and for obvious reasons Professor Jaffa would rather talk about slavery than the political documents which are the announced topic of *Basic Symbols*. And so he does, curving around obstacles to reach the sacred subject, turning his argument in that direction by charging that Kendall and Carey never mention the word in their study and that such an omission avoids the essential question of the American political experience. He repeats this charge several times during the windings of his thesis, despite the fact that it is unfounded (pp. 479, 486, and 491). For an instance, he ignores the following comment on page 92 of *Basic Symbols*, a passage that raises perhaps a most difficult question for him to consider:

However, the assembly that approved the Declaration would not subscribe to the denunciation of slavery that Jefferson sought to include, so that we might be led to believe that the signers were talking of equality of men in a sense far short of that which modern egalitarians hold.

Small wonder that Professor Jaffa's rhetorical river veers sharply away from this high ground. Was it forgotten or ignored in order to avoid the issue it raises? Whatever the reasons, it flows off in that direction, attacking Kendall's review of *Crisis of the House Divided*, a Kendall essay in which the issues are relevant to slavery and

furthermore a matter of historical interpretation. Soon we are curling and gliding through familiar territory, much of it mythic in nature and therefore simpler and purer than life. In Jaffa's imaginary history of the United States, Jefferson is the drafter of the Declaration, but *not* the slaveholder who wrote in *Notes on the State of Virginia* of his suspicion that blacks "are inferior to the whites in the endowments both of body and mind" and that this "unfortunate difference of colour, and perhaps of faculty, is a powerful obstacle to the emancipation of these people"; and *certainly not* the Virginian who called "Equality" a "mere abstraction" and its devotees a "Holy Alliance". There, Locke is the philosopher of *The Second Treatise*, but *not* the man responsible for *Fundamental Constitutions for Carolina*. Antebellum slavery is a kind of Buchenwald;⁴⁸ and the United States Constitution is drafted with a tacit understanding that "all men are [really] created equal", that this is a proposition with "constitutional status", *in spite of the fact* that the Constitution itself recognized the established legal institution of slavery and discouraged interpolation into its provisions of what is not clearly there. All of these oversimplifications ignore one overriding question, the question that Kendall and Carey raise and which Professor Jaffa is careful not to consider. Some "truths" are more important than the Truth. Even the Truth that we have a political tradition that is conservative and contrary to Lincoln. Thus, though the river of Professor Jaffa's argument seems erratic, its wanderings (like the wanderings of a real river) have a predictable pattern; they follow the course of least resistance. And it is in the pattern—tortuous and circuitous—that one can see the relationship between his "style" and his "ultimate morality of mind."

Yet we cannot entirely blame Professor Jaffa for these aberrations, this great falling away from scholarly rectitude and right reason. His errors are endemic among his kind—such Old Liberals as identify their politics with the Lincolnian precedent. As I have tried to indicate, such errors constitute what amounts to a "genetic flaw" within that intellectual tradition, a fracture impossi-

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ble to heal. Trying to preserve property, secure tranquility, and promote equal rights, all at the same time, insures that none of these purposes will be accomplished. And insures also a terrible, unremitting tension, both among those in power and among those whose hopes are falsely raised. Especially with persistence in thinking of men outside of all history that is not Lincoln, and apart from the durable communions of craft and friendship, faith and blood. It has been, however, a distinctive trait of American political thought to do its worst as it touches upon the Negro: to break down when unable to make it through the aforementioned impasse of objectives. Class struggle has been the result, to say nothing of race conflict. And that failing attaches by definition to the Republican identity, flawing it perhaps forever as a viable conservative instrument. Said another way, the more a people derive their political identity from Lincoln's version of Equality, the more they are going to push against the given and providential frame of things to prove up the magic phrase. And, therefore, the more they will (to repeat one of my favorite images) kick the "tar baby".⁴⁹ And we all know how that story ends.

NOTES

1. When pressed in debate by the righteous minions of Equality, an antebellum Northern statesman once called sentence two of the Declaration a "self-evident lie". Consider also *The Federalist*, No. 10.

2. See Helmut Schoek, *Envy: A Theory of Social Behavior* (New York: Harcourt Brace Jovanovich, 1970).

3. *On Power: Its Nature and the History of Its Growth* (Boston: Beacon Press, 1962).

4. See Eric Voegelin, *Science, Politics and Gnosticism* (Chicago: Henry Regnery Co., 1968), pp. 99-100.

5 Robert Penn Warren, "Democracy and Poetry", *Southern Review*, XI (January, 1975), p. 28.

6. See my "A Writ of Fire and Sword: The Politics of Oliver Cromwell", in No. 3 of *The Occasional Review* (Summer, 1975), pp. 61-80.

7. Doctrine is a loaded word. It is here suggestive of theology, revealed truth, though Lincoln means by it the kind of demonstrable "abstract truth" of the sort Jefferson "embalmed" into a "merely revolutionary document". See Lincoln's letter to Messrs. Henry L. Pierce & Others, April 6, 1859, on pp. 374-376 of Vol. III of *The Collected Works of Abraham Lincoln* (New Brunswick, N.J.: Rutgers University Press, 1953). The usage is thus a device for "having it both ways", as does Jaffa when claiming that the commandments of Sinai are

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knowable by unassisted human reason. For the commandments are explained only in Christ—a scandal to the Greeks.

8. Edmund Burke, *Reflections on the Revolution in France* (Chicago: Henry Regnery Co., 1955), p. 240.

9. *Ibid.*, p. 244. See also on this manner of thinking Louis I. Bredvold's *The Intellectual Milieu of John Dryden* (Ann Arbor: University of Michigan Press, 1934) and also *The Brave New World of the Enlightenment* (Ann Arbor: University of Michigan Press, 1961) by the same author. Swift is a major illustration of this intellectual *habitus*. I identify with it.

10. I borrow from the title of Paul Fussell's *The Rhetorical World of Augustan Humanism* (Oxford: The Clarendon Press, 1965). In the same connection see J.T. Bolton's *The Language of Politics in the Age of Wilkes and Burke* (Toronto: University of Toronto Press, 1963).

11. See Jaffa's *Equality & Liberty: Theory and Practice in American Politics* (New York: Oxford University Press, 1965), p. 122; and Leo Strauss' *Natural Right and History* (Chicago: University of Chicago Press, 1953), pp. 1-9.

12. Jaffa accepts the Puritan typology for the American venture. There are, we should remember, alternative formulations (*Equality & Liberty*, pp. 116-117)—formulations less infected with secularized eschatology. And if Jaffa pursues his analogue, he should remember that there was slavery in Israel and among the ancient Jews a racism so virulent that they considered some neighboring peoples too lowly even for enslavement and fit only for slaughter. Or too wicked (Indians, the Irish at Drogheda, etc.).

13. Peter Gay, *The Enlightenment: An Interpretation* (New York: Alfred A. Knopf, 1966), pp. ix-xiv.

14. See Maurice Ashley, *The Glorious Revolution of 1688* (New York: Scribner's, 1966), pp. 97-106.

15. And this of course includes certain established rights, plus a balance between the values of liberty and community. I do not mean to minimize the value of these achievements. Clearly I identify with them.

16. *Equality & Liberty*, pp. 114-139. For correction (in some respects), see Leonard Woods Labaree's *Conservatism in Early America* (Ithaca: Cornell University Press, 1959), pp. 119-122; and Clinton Rossiter's *The Seedtime of the Republic* (New York: Harcourt, Brace & World, 1953), especially p. 345; also Ashley, *op. cit.*, pp. 193-198.

17. David Duncan Wallace, *South Carolina: A Short History, 1520-1948* (Columbia: University of South Carolina Press, 1966), p. 25.

18. John Locke, *Two Treatises of Government: A Critical Edition with Introduction and Apparatus Criticus*, by Peter Laslett (Cambridge, England, 1960), p. 159.

19. For examples consider Bernard Bailyn's *The Ideological Origins of the American Revolution* (Cambridge, Mass.: Harvard University Press, 1967); and Gordon S. Wood's *The Creation of the American Republic, 1776-1787* (Chapel Hill, University of North Carolina Press, 1964). Somewhat better are H. Trevor Colbourn's *The Lamp of Experience: Whig History and the Intellectual Origins of the American Revolution* (Chapel Hill: University of North Carolina Press, 1965); and Merrill Jensen's *The Founding of a Nation: A History of The American Revolution, 1763-1776* (New York: Oxford University Press, 1968). These last two books are especially good on the "reluctant rebels", who were Burkean, not Lockean Whigs, postulating law, not a state of nature (i.e., where a fullscale, new contract can be drawn). See also Wallace (*op. cit.*, p. 273) for an account of a prescriptive South Carolina patriot—William Henry Drayton. (Or see my essay on him elsewhere in this volume.)

20. In strict logic there is a problem with quantification if the proposition is supposed to be universal: a universal proposition would read "every man is created equal to every other man." Jefferson's phrase is merely a loose generalization, when seen in this light. For the libertarian the trouble goes the other way around: if all men are by nature equal (morally, in

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will, intellect, etc.), then only circumstances can explain the inequalities which develop. And these circumstances are thus offences against nature and the Divine Will—offences demanding correction. What some libertarians try to get out of “created equal” is “created unequal, but given an equal start”. Jefferson’s phrase will not submit to this.

21. An exception is Russell Kirk’s *The Roots of American Order* (La Salle, Ill.: Open Court, 1974). (See my estimate of that work in the last study in this volume.)

22. One has the temptation to say, as Socrates did of the rhapsode in Plato’s *Ion*, that they understand the subject not by art or knowledge but by “inspiration”.

23. I began to develop this view in “Lincoln’s New Frontier: A Rhetoric for Continuing Revolution”, *Triumph*, VI, No. 5 (May, 1971), pp. 11-13 and 21; VI, No. 6 (June, 1971), pp. 15-17. I use the term from Eric Voegelin’s *New Science of Politics* (Chicago: University of Chicago Press, 1952).

24. For a chronicle of these events see Jensen (*op. cit.*) and Lawrence H. Gipson’s *The Coming of the Revolution, 1763-1775* (New York: Harper & Brothers, 1954).

25. Charter and compact are usually synonyms in the language of the Whigs, and usually imply a relation of unequals.

26. There is no room for “secret writing” in public declarations.

27. I cite Volume I of Julian P. Boyd’s edition of *The Papers of Thomas Jefferson* (Princeton: Princeton University Press, 1950), pp. 315-319 and 414-433. Carl Becker, in his valuable *The Declaration of Independence: A Study in the History of Politics and Ideas* (New York: Vintage Press, 1958), argues unreasonably that this bill of particulars is not really important to the meaning of the Declaration. He was, however, as we should remember, an admirer of the *philosophes*—and no rhetorician.

28. The image here is drawn from one of the Fathers of English law, from chapter 13 of the *De Laudibus Legum Angliae* (1471) of Sir John Fortescue (Cambridge, England: Cambridge University Press, 1949), the edition and translation by S.B. Chrimes.

29. Jaffa’s argument that one national Union was decided upon in 1774-1776 or before is easily refuted by John R. Alden’s *The First South* (Baton Rouge: Louisiana State University Press, 1961); in Alden’s *The South in the Revolution, 1763-1789* (Baton Rouge: Louisiana State University Press, 1957); and in Donald L. Robinson’s *Slavery in the Structure of American Politics, 1765-1820* (New York: Harcourt Brace Jovanovich, 1971), p. 146 *et passim*. More than one Union has always been a possibility to be entertained by deliberate men. See Staughton Lynd’s “The Abolitionist Critique of the United States Constitution”, in *The Antislavery Vanguard: New Essays on the Abolitionists*, ed. Martin Duberman (Princeton: Princeton University Press, 1965), pp. 210-239.

30. For instance, Professor Jaffa in forcing the notion of a Union before the Constitution into the “We the People” of the Preamble. Few scholars deny that the people acted through the states to ratify—as they had to form a Constitutional Convention. To this day they act through the states to amend. They existed at law through the maintenance of their several freedoms in battle. They formed the Confederation. The Declaration was only a negative precondition to a Union and to the firmer connection that followed. Underneath all of this may stand an unwritten Constitution, joining the partners of the Declaration in more ways than are specified in 1787. And perhaps also committing them to other ends: ends which Professor Jaffa would not care to consider. That compact was the prescription which sanctioned the Continental Congress—a creature of the chartered colonies. If the Declaration commits to anything, it is to that prescription—a compact of “the living, dead, and yet unborn”. The continued operation of a society united in such a compact constitutes assent, regardless of official legal relations. New members are the only ones who are “sworn in”.

31. For instance, the 32 acts passed by Virginia’s colonial House of Burgesses which called for a restriction of the trade, all of them negated by the Crown at the behest of Northern

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traders. Reports of the Constitutional Convention of 1787 indicate the same sort of pressures, resolved there by reasonable men determined to close out a divisive subject.

32. See "Getting Right with Lincoln", pp. 3-18 of David Donald's *Lincoln Reconsidered* (New York: Vintage Press, 1961).

33. And especially from Kendall's "Equality: Commitment or Ideal?" *Phalanx*, I (Fall, 1967), pp. 95-103, which answers some of Jaffa's complaints about Kendall's silences. I find it curious that Jaffa does not mention this piece.

34. Except for reasons of strategy (guilt by association), I cannot see why Jaffa identifies *Basic Symbols of the American Political Tradition* with the South. For Kendall and Carey begin with Massachusetts and Connecticut.

35. See p. 226 of Jaffa's own *Crisis of the House Divided* (Seattle: University of Washington Press, 1973).

36. See Edmund Wilson's magisterial *Patriotic Gore: Studies in the Literature of the American Civil War* (New York: Oxford University Press, 1962), pp. 99-130. Surely Wilson cannot be mistaken in arguing that Lincoln saw himself in his portrait of the "new founder". For Lincoln clearly knows the animal he describes on a more intimate basis than mere speculation or observation could provide. Wilson compares Lincoln (pp. xvi-xx) to Bismarck and Lenin—the other great founders of our age. Another useful analogue (a firm higher-law man, and no legalist or historicist) is Adolph Hitler. For he writes in *Mein Kampf* that "human rights break state rights", calls for illegal as well as legal instruments in "wars of rebellion against enslavement from within and without", observes that all governments by oppression plead the law, and concludes, "I believe today that I am acting in the sense of the Almighty Creator . . . fighting for the Lord's work." (I cite the edition of 1938, published in New York by Reynal and Hitchcock, pp. 122-123 and 84).

37. Donald, *op. cit.*, p. 131.

38. Roy P. Basler, *The Touchstone for Greatness: Essays, Addresses and Occasional Pieces about Abraham Lincoln* (Westport, Conn.: Greenwood Press, 1973), pp. 206-227.

39. Jaffa praises Fehrenbacher's work.

40. *A Constitutional View of the Late War Between the States* (Philadelphia: National Publishing Co., 1868), Volume II, p. 266.

41. Lincoln's use of this passage is curious. For, as the context makes clear, Christ's point in setting up the dichotomy is that the Devil would not help his servants to ruin his own plans.

42. See David Brion Davis' *The Slave Power and the Paranoid Style* (Baton Rouge: Louisiana State University Press, 1969), especially pp. 10-11.

43. I use quotation marks because I deny that they were ever founded, in that term's strict sense.

44. *America's Political Dilemma: From Limited to Unlimited Democracy* (Baltimore: Johns Hopkins Press, 1968), pp. 17-62. He is supported by papers published in *National Review* by the late Frank Meyer (Aug. 24, '65; Jan. 25, 1966).

45. Liberty is clearly the American value of greatest traditional authority—meaning "liberty to be ourselves", a nation which assumes an established, inherited identity. On the part played by the Gettysburg Address in this process, see my *Triumph* essay cited above and revised for this volume.

46. Lincoln, *Collected Works*, vol. VIII, p. 356.

47. Donald, *op. cit.*, p. 8.

48. This analogy smacks of Stanley Elkins' now discredited theory in *Slavery: A Problem in American Institutional Life* (Chicago: University of Chicago Press, 1959). For correction see Eugene D. Genovese's *Roll, Jordan, Roll: The World the Slaves Made* (New York: Pantheon Books, 1974). Also consider the fact that Jews were proscribed under Hitler—all Jews, in the

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same way—while antebellum Southern blacks could be slaves or freemen or even slaveholders.

49. "A Fire Bell in the Night: The Southern Conservative View", *Modern Age*, XVII (Winter, 1973), pp. 9-15. In those pages I maintain that an expansive view of "natural rights" with respect to Negroes has undermined our inherited constitutional system.

WORD FROM THE FORKS OF THE CREEK: THE REVOLUTION AND THE POPULIST HERITAGE

It is a convention of the political discourse of the South—a convention sometimes also applicable to the conduct of other territories, such as Ohio and Illinois—that early election returns are not always trustworthy, coming as they do from *deracine* and easily manipulable urban districts, and that no prognosis of final results should be attempted until we have had the proverbial “word from the forks of the creek”: from the older, more stable, and usually rural communities. What is signified by this old expression is not mere rural backwardness or blind reaction. Indeed, pockets of traditionalist recalcitrance cannot be so easily associated with a rustic background as was once the case. Yet even in earlier times, when no one spoke of the “urban ethnic” or the “suburban vote”, and our country remained overwhelmingly agricultural in its flavor, the returns from upcountry did not always seem particularly conservative to the spokesmen of concentrated commercial interest or to the centers where “official” opinion was made up and packaged for distribution. Nor could the commercial centralizers of that day confidently locate their adversaries in terms of geography alone.

The constant in this relation of those conditioned by concentration, commerce, and mass communication and those outside that now familiar nexus is identity conflict, not place or ideology.¹ And economics will explain neither the persistence nor the variety of the rhetorics by means of which that conflict is sustained. It is my argument, however, that the dispute I have just described has been

informative of the political life of my part of the country since earliest settlement, that it was fundamental to a number of colonial upheavals, such as Bacon's Rebellion and the Regulator movement in North Carolina, that it provoked the agricultural revolts of the past century, that it played a part in certain major nineteenth century transfers of power (Jefferson, Jackson, etc.), and that, when used as a frame, it helps explain the American Revolution itself. To say nothing of Free Soil, or the Secession of 1861—explosions which rejected established, moderate leadership, once it was perceived as somehow in collusion with an external antagonist and indifferent to the electorate it was supposed to represent. Or of more recent disturbances, backlashes, and "farmers' strikes".

I write therefore an essay on what is ordinarily called the "Populist strain" in colonial Southern politics. Though what I say applies to American politics at large—Southern politics being, once again, more American than any other. And I write in correction of now familiar simplicities on the subject. For it has seemed to me for some time unreasonable to confine our inquiries into the pattern of periodic disruption of the smooth flow of our public life—disruption brought about in the name of the people—to studies of the flamboyant figures whose names were a living force in the political conversations of an earlier day. Or to the "wild men" of the generation ending with Huey Long. Or even the familiar tribunes of the people who have thundered back and forth across our horizons during the previous decade. The argument from character makes of reduction too simple and too easy a business where many of these men are concerned. And thus their hegemony over large followings well pleased with their fervor is likewise reduced to aberration and mass hysteria: something foreign to our political process. Such has always been the procedure of the contemporary enemies of the Populists. But for the historian of our political experience it is beside the point. Or else an evasion. Since his proper subject is the disposition of an historic people to call these angry voices toward the front of the hall, whenever the familiar pattern of offending circumstances has recurred. And their attendant disposition to insist

that the expression of this anger rest always on certain assumptions as consistent as the provocations which bring it forth.

It is thus both a surprise and a pleasure to discover in a new book by Edmund S. Morgan, perhaps our most distinguished colonial historian, a chapter entitled "Toward Populism", which treats of the selection of leadership in our "oldest Dominion" from the year of Governor Berkeley's removal to the heyday of Patrick Henry.² However, Morgan tells us little that was not implicit in the older studies of Thomas Perkins Abernethy and Charles S. Sydnor: and also easily inferred from the historical records of the other Southern colonies.³ As we should have recognized long ago, the 1676 experience of Virginia is recapitulated in each of her sister colonies, though with lesser and greater degrees of turmoil. There were five distinct rejections of the established order in proprietary Maryland during the period between 1650 and 1689.⁴ And this count leaves aside long periods of silent disobedience or noisy remonstrance—officially "peaceful" intervals along the Chesapeake. South Carolina's nabobs, in 1719, used the provincial militia to stage a coup and seize the reins of authority in Charleston. Within less than a decade of the founding of Georgia, its inhabitants were bombarding the Crown with petitions and pamphlets demanding relief from the *a priori* directives and regulations of their philanthropic sponsors. And in the 1760's the greater part of Western North Carolina rose up against Governor Tryon in a conflict not yet settled when the Revolution itself began. There was, no doubt, a good deal of discord within the British colonies in North America. And between them and the imperial government. Both occurring throughout the period of their dependency. It suggests a general disagreement concerning the purpose for their creation. And also disagreement concerning the variety of English identity they could hope to preserve.

But what is, for my purposes, most significant in the reconstruction of this nascent pattern is that none of these uprisings in the backlands carried with it the least tincture of class conflict or revolutionary intent, in that term's accepted modern character:

neither in their beginnings nor in their consequences. Writes Francis Butler Simkins, "Protests were of a territorial rather than a class character. Men of all classes protested against acts of the imperial government in London, as men of all classes of the back country protested against the privileges and exactions of the coastal oligarchies."⁵ In every case, what was demanded was the restoration and observation of a certain implicit idea of confederation or interdependence, not that roles and stations, duties and authorities in their traditionally understood character be abolished or reversed. Of course, when such demands were too long ignored, or when certain persons or components of a commonwealth appeared to act in disregard of comity, and with an eye to their own narrow interests as part of some extrinsic social or economic combination, then more drastic alternatives came into play. Finally some one person or small group of persons would emerge to speak for restoration *in extremis*. Only armed conflict or the removal of one of the adversaries could then restore the peace. But not the renovation of the local social and economic order upon the basis of some "new model", conceived in the heat of angry minds. That prospect was not in view. Even what innovation new circumstances would require called upon precedent for its authority. In the 350 years of Southern politics (and in much other American politics besides) few of these rules for fraternity have ceased to obtain. At least for the Populist mind. We are sometimes reminded of them when those very late returns come in.

* * *

I will return shortly to the practice of Populist politics within the larger American system, to the post-bellum Southern Populists and to the Revolution itself, a datum to which they invariably adverted as the authority for their conduct. For it is in the confusion of our modern authorities where these obstreperous gentlemen are concerned that we can find an explanation of their related incapacity to comprehend our forefathers' original motives in demanding independence from George III. And likewise their astonishment at

the claims of more recent popular champions to follow the best and oldest of American precedents in their own assaults upon remote "foreign" authority that hides beneath the rhetoric of beneficent intent and the claims to special knowledge of where the common interest lies. But first, I will remark in some detail upon that original of all Southern reactions to the irresponsible exercise of power and neglect of communal principle, the oft-sentimentalized struggle between Nathaniel Bacon and the irascible old Sir William Berkeley.⁶ The Virginia politics which issued in the Declaration of Independence do indeed have their American roots in this struggle. But it is absurd misconstruction to discover in Bacon's Rebellion a distant foreshadowing of modern egalitarian thought. The appropriate analogues are back the other way, in documents such as the border ballad "Johnny Armstrong" and the conduct of the feckless princes portrayed in the English history plays.⁷ Or in the removal of James II by the Lords and Commons of Great Britain when they found him to be arbitrary and disrespectful of the very law which made him King.

Nathaniel Bacon did not create the revolutionary temper of the Virginia which he turned upside down. Contrary to Berkeley's official reports to Whitehall, that high-handed old soldier and his cronies in the Governor's Council deserve most of the credit for providing a vehicle for the restless ambitions of their youthful opponent.⁸ Bacon was no low-born scoundrel and, in fact, looked down at the loftier pretensions of the native Virginia gentry. He had lately come over with the best possible connections and the highest recommendation when circumstances played into his troublesome hands. Berkeley had made Bacon a member of his Council almost as soon as he took residence a little upriver from Jamestown. And he had not offended the young gentleman in any way—apart from the more general offense that he had given to all Virginians troubled over the menace of Indians along the frontier. But at Jordan's Point, in a popular assembly held close to his home, the interests of the youthful planter/trader and the interests of frontiersmen and small holders merged under the influence of rum. And the cry went

up, "A Bacon! A Bacon!" that he should receive a commission to lead his neighbors into battle. Berkeley gave him this commission, almost at gunpoint, and then reneged. Bacon and his adherents—men of all classes—chased down a few Indians, scoured the colony's outer fringes, and then turned back to punish the ruling oligarchy which fled from their wrath. Much looting ensued, most of it rationalized under the now-familiar name of "reparations". Berkeley cowered on the Eastern Shore as a military expedition, sent out from England to quiet the country, drew near. Bacon conveniently died of a flux, the *ad hoc* army dispersed, and Berkeley completed the record of his folly with a considerable looting of his own (also "reparations"), plus a number of hangings—a set which moved Charles II to remark that the Governor's vengeance was more severe than his own upon the murderers of their rightful King, his father.⁹ Yet the master was in all ways wiser than the servant; and, with the help of his successors, replaced Berkeley with a sequence of good stewards who, through benign neglect and with a light hand, cultivated in the total population of what the poet called "earth's only paradise" a sense of fellow-feeling joining all social orders and stations with a conviction that the prosperity which they made for themselves had a security in the representatives of the Crown. England learned a great deal from Bacon's Rebellion; and only when it had forgotten its lesson in a false enthusiasm for more "energetic government" did its leaders forfeit the benefits of a considerable North American revenue.

Let us look more deeply into the causes of this insurrection before we insist further upon its usefulness as a paradigm for subsequent Southern resistance to violation of the norms of confraternity. The most immediate cause of discontent prior to the arrival of Bacon was the inability of Virginians to feel secure with small and supposedly pacified Indian communities scattered along their frontier and with raids from more remote and considerable tribes using intelligence, and sometimes even assistance, from these "tame" redmen to pursue their depredations amongst the scattered population of the western counties. Berkeley had won an Indian war a few

years earlier. He and his friends, for whose sake the government was largely conducted and in whose name its policies were appointed, had the benefit of this outer fringe to protect their ever-growing wealth. But they did not see any danger of a large-scale assault on the whole province from heavy concentrations of Indians living far to the north and west. Furthermore, some of them were in the Indian trade. And the idea of the frontier under arms, whatever the excuse, gave them pause. It would interrupt and discourage "business". Lastly, Indians prevented too rapid a movement of the population onto the lands in which they speculated. Those rough fellows would have to get along with the occasional loss of a wife or child and curb their unreasonable bigotry. Armies marching around in the upper valley of the Potomac or along the Blue Ridge would only provoke that larger confederation of the tribes which could endanger the safety of the Tidewater with the possibility of a general conflict like King Philip's War in Massachusetts.

However, there was a great deal of Indian trouble in 1675 and early 1676, some of it provoked by the sanguinary disposition of the frontiersmen and some of it coming with raiding parties from beyond the borders of the colony. Therefore, Berkeley and his men decided that a little something might be done. Forts should be built on the headwaters of the four great rivers along which the settlement had developed. These were, of course, to be manned and officered by soldiers from the Tidewater, drawn from the connections and kindred of the ruling cabal. And they were to be paid with a quantity of tobacco far greater than what the smaller farmers they were to protect could hope to produce. No expeditions were in prospect, no raids of retaliation or patrols in force. And no frontiersmen were to be given arms. Now the backcountry had enemies in front and behind. One reached for its scalp, the other for its purse. Complaints were interpreted as a manifestation of "wicked republicanism". When an objecting House of Burgesses was elected, the Governor employed the King's prerogative to silence its petitions. Sympathetic Virginians from other portions of the colony were cowed into silence. A few more isolated settlers were

massacred. And though no forts were built (the "specious pretences of Publick works" having failed), what Bacon called "Berkeley's crowd of place-holders" made it clear that they would be sensible of some obligation toward savages who removed from their orbit the troublesome persons who continued to cry out for an army.¹⁰ It is true that Nathaniel Bacon was no model citizen.¹¹ Yet it is also true that William Berkeley pushed his luck and got what he deserved. He went home in disgrace, having torn the colony of Virginia in two. But despite his distortions for the benefit of King Charles of the theory behind the insurrection, all of this trouble had occurred without the slightest temptation on the part of rebels to elevate the condition of servants or slaves or to otherwise remodel the society within which they hoped to enjoy a rightful share. It had been a conflict of factions, of "them" versus "us". And a conflict presupposing a familiar English notion of the structured community of interdependent men. It is therefore no surprise that within two years of its conclusion, conditions were back to normal. Yet with subsequent governors, the threat was always there in the back of their minds. And also in the minds of the burgesses and county officers who sustained them in their wisdom. Edmund Morgan, writing of that century of Virginia politics, observes that "... the small planters, who made up the great majority of the voters, were persuaded that their interests would be well served by big men. Such a persuasion required that the two should perceive themselves as sharing interests that were more important, at least for political purposes, than those that divided them."¹²

I will not dwell upon colonial Maryland in developing my Populist pattern. For though the evidence of its history contains incidents useful to my case, its upheavals are too numerous, many-sided, and inconclusive to be reduced to order in this space. It suffices to observe that religious divisions troubled Maryland from the time of its original settlement (1634), that for a time the Calverts lost their proprietary control over its development (1691-1716), and that, once these religious tensions were resolved and the Calverts

(now Anglican) recovered their authority, it was governed with a prudence and restraint which suggest that lessons had been learned by all (both colonials and Proprietors) during the time of trouble. It is significant that Maryland was still a proprietary colony when the Revolution came.¹³

South Carolina furnishes materials far more explicitly to my point. Though here the major rebellion was successful. And entirely peaceful, when its time came around. Yet its causes had a close relation to those which had brought Bacon to power in Virginia over forty years before. And if they had been ignored after the manner of Sir William Berkeley, there is no doubt that an equivalent explosion of anger would have occurred. However, in this case there was no single spokesman to articulate the colonial sense of grievance. And the resident proprietary governor was no despot but rather a decent man, one who united with his fellow Carolinians in confronting the Indian menace, French and Spanish hostility, and his neglectful masters—the charter-holding Lords Proprietors.¹⁴ Indeed, Col. Robert Johnson, mindful of the recent Yamasee War, and of the machinations of other European powers, tried his best to prepare for the defense of his neighbors. And to preserve their title to rightful holdings, or the availability of lands newly opened to the settlement by persons who had earned a share in them through their risks of life and limb. Hence he preserved their respect so well that a decade later, he was named royal governor of Carolina at their behest. But in November of 1719, Johnson became a victim of his situation. In calling out the militia to face invasion, he provided a context for his own replacement. The muster became a popular association, and spread quickly among all levels of society. In response to its pressure the next assembly of the provincial legislature converted into a convention and named James Moore to govern in the name of the King. John Barnwell, the old Indian fighter, was dispatched to England with a long paper drawn to justify these proceedings, *A True State of the Case between the Inhabitants of South Carolina and the Lords Proprietors*.¹⁵ His task was

easily accomplished; and, in 1771, the Privy Council acknowledged the *fait accompli* of a justified Populist revolution by sending out the veteran Francis Nicholson as the first royal governor.

The failure of the Proprietors in South Carolina was of the usual kind, repeated in other places throughout American colonial history: a tendency to imagine that they could treat Englishmen as mere property, an indifference to their responsibilities as stewards of the society growing rapidly to maturity under (or despite) their direction. Their specific crimes against the rationale of their enterprise, the rule of confederation, involved the seizure for their own use of property acquired in a war they did not support. The refusal to confirm clear titles to improved lands long occupied compounded this offense. As did bad faith in the matter of their rents. Plus other efforts to draw revenue from injured holdings. Finally, after the 1719 transfer of power, the Proprietors capped off their record of irresponsibility in attempting to "unload" South Carolina as a "bubble", offering shares in it upon the Exchange. Yet, as Professor Crane has argued, there is no doubt that "the crux of the controversy had been the failure of the Proprietors to provide adequate defence."¹⁶ This charge had a considerable history. But it had come to a head during and after the Yamasee War of 1715. Out of a false economy and a clear indifference to the lives of their settlers, the Proprietors (a different lot from those worthies who had founded the colony) forfeited the confidence of their American servants. And persuaded them that what had once been a community, of interest and spirit, was now only a source of revenue. And for the war-damaged colonists, a one-sided source. To that sort of colony no Englishman would agree.

The conditions which brought about an end to proprietary government in Georgia followed closely those that prevailed in the South Carolina of 1719.¹⁷ Though it did not wait so long for Georgians to effect a popular combination. And, due to the infant state of the colony when it began to call upon the Crown for relief, the change in auspices was not so easily accomplished. But the main difference between the "clamorous malcontents" of old

Georgia and their counterparts up the coast was in the nature of their objection to proprietary rule. Their adversary (as is the case with so many modern Populists) was not mere greed, but spiritual pride and ideology. And against this enemy they could do nothing, at least until the follies of James Oglethorpe and his associates were well understood by their sometime admirers in both Court and Parliament.

Concerning popular rebellion in Georgia we emphasize therefore the role of written remonstrance. In a place so new, so small, so surrounded, and so totally controlled, only petitions would serve to bring relief. Which circumstances, for the ends of this study are fortunate indeed. For by being embodied in a pamphlet war the social theory at stake in this colonial dispute is preserved for examination, or rather, the social theories. In that conflict the Proprietors (as we could expect) also had their champions. Much of this material has been usefully collected by the Beehive Press of Savannah in a volume entitled *The Clamorous Malcontents: Criticisms and Defenses of the Colony of Georgia, 1741-1743*.¹⁸ We may look to this collection to discover the emerging shape of Southern Populism in one particular community.

The founding of Georgia, we remember, comes quite late in the colonial period. General Oglethorpe and his friends received their authorization in 1732, and began their planting the following year. For the particulars of the philanthropic plan behind the creation of this buffer community at the Southern end of British America we should look to the royal charter itself.¹⁹ There it is guaranteed that the trustees shall make no laws or regulations "contrary or repugnant to the Laws or Statutes of this our Realm."²⁰ Upon this promise and out of a desire "to refashion [Georgia] in the image of other English settlements," thus protecting in their midst the "naturall Rights" and "priviledges of British subjects," the principal settlers of this new colony cried out that the day to day regulation of their lives might be completely changed.²¹ In specific they included under the heading of natural and inherited rights denied by Oglethorpe's Spartan, reformist regimen the op-

portunity to hold land in fee simple, in whatever quantity they could acquire; the right to purchase a plentiful supply of rum; and the right to buy a Negro or two, and keep out of the sun. There were, of course, other complaints against appointed and unremovable magistrates and administrators, against the unwisdom of particular distributions of land, and against the condition of every grant that the new holder grow mulberry trees to provide for the requisite worms.²² And also objections to the military adventures and vulnerability to which the colony was subjected. But the major thrust of every letter and petition was against the absence of a structure for self-government; against the denial of constitutional rights; and against the impossible conditions produced by that denial.²³

For a complete (and artful) expression of this position we should look closely at *A True and Historical Narrative of the Colony of Georgia*, by Patrick Tailfer, Hugh Anderson, David Douglas, *et al.* And particularly at the mock encomium to James Oglethorpe, Esq., with which it begins, one of the minor classics of our colonial literature.²⁴ In these pages the "benevolent" founder is praised as one who made a desert and called it peace. Or if not peace, then order. The Proprietors are credited with having created poverty and misery *by design*:

You considered Riches like a Divine and Philosopher, as the *irritamenta malorum*, and knew that they were disposed to inflate weak minds with Pride, to pamper the Body with Luxury, and introduce a long variety of Evils. Thus have you *protected us from ourselves*, as Mr. Waller says, by keeping all earthly comforts from us. You have afforded us the Opportunity of arriving at the integrity of Primitive Times, by entailing a Primitive Poverty on us.²⁵

Later, the satirists tell their onetime sponsors that their handiwork declines toward ruin, giving them an unusual opportunity to observe in the "child" of their "auspicious Politicks" a miniature of the full cycle of human social history, from beginning to end. And for such "projecting" (used here as Swift applies the term),

they are promised an immortal name. Though of what sort it is only implied. The narrative which follows this ironic praise served only to develop its themes.²⁶ They are repeated in other petitions signed by most of the freemen still resident (in 1740 or 1741) beyond the Savannah. The only exceptions were a few settlers in service to the trustees, and a few kept to silence by favor or fear. Plus certain others too disgusted to think of anything but a quick way out.

By the power of the pen was Oglethorpe undone. At least once the widely read rhetoric of his enemies was confirmed, both by reports from the scene and by Georgia's steady decline. A change of regimen was ordered. For England had need of a settlement to protect the Southern frontier. The tight grip of abstraction (that had drawn up farms shaped as triangles) was relaxed. In the following years Georgia was converted into a prosperous plantation, framed on the model of the other Southern colonies. Eventually, clear titles were given, slaves bought, and spirits consumed. The heavy-handed magistrates were replaced. In 1751 a legislature was created. And in 1752 the process was completed, the charter suspended, and a royal governor named. What Georgians had really wanted from the first, as guaranteed by George II, was this kind of government, under Crown and Constitution. Hence all of them talk of "ye famous Declaration of Rights, made by our Fore Fathers at ye Glorious Revolution."²⁷ According to a theory of the basis of society well expressed by Southerners twenty-five years later, the Georgians had insisted that "Obedience and Subjection . . . proceeds from paternal Authority and filial Dependence."²⁸ The King's protection, through his enforcement of inherited law, is the source of his authority. Together prince and subject are, through the prescription, an incorporated body—a family. Nothing less will do. But though this rebellion was through the written word, with no swords drawn or crowds assembled, it had still a Populist character. It involved rejection of a standing political machinery, and was distinguished by the insistence of American remonstrants

that a baneful innovation against the grain of British politics be made to cease. And their lives left free to prosper within an institutional framework of the well known and the long ago approved.

Apart from Bacon's Rebellion, the North Carolina Regulators enacted the most serious Populist challenge to colonial government to occur in the years preceding the American Revolution. This is another violent rebellion, once more illustrative of what occurs when rightful complaints go unanswered and the Populists are confronted with force.²⁹ Once again, the antagonist of the drama is a petty tyrant, one William Tryon. And the charges brought forward against the government of the colony are the charges we have heard about in other connections in the studies just above: that power is used to benefit a few, that the law has been withheld, that taxes have become an extortion, and that self-government and representation have been denied.³⁰ Authorities over the sea, in Whitehall, backed up the royal governor. Eastern North Carolina was allowed to dominate the new counties of the Piedmont. The Carolina Proprietors were given rents, thus producing a double levy. Petitions were ignored, and high fees charged for every service of the state. Finally the Regulators lost patience. Mobs swirled back and forth across the upcountry. Matters came to a head when a portion of their host descended on a regular court session at Hillsborough and there, in a mock court, usurped the function of the law.³¹ The property of placemen was destroyed, and many of their number soundly thrashed. Tryon of course responded by calling up the militia, making a few concessions and marching west to "subdue the rebels". The results could be predicted since no Bacon stood in his path.

About twenty men were killed (or given mortal wounds) at the Battle of Alamance. Six more were hanged. Thousands of Regulators fled the state for South Carolina (where a related movement was afoot) and the new territories of Tennessee. Some good, however, came out of the turmoil, and out of the literature of controversy it produced.³² The legislature was reapportioned, the court system reformed, placemen removed, and taxes reduced. Even the

older counties learned that they did not want their governor too powerful, or too closely committed to one faction within the society. Yet, as was the case with Bacon's Rebellion a century before, this popular movement (1765-1771) was marked for the worse by its lack of a coherent set of objectives to be accomplished by the taking of risks. The plan of their leaders depended upon a change of heart in the governor at New Bern, and therefore collapsed once anger took its place.³³ How, and in what way, the Regulator movement fed into the Revolution itself is a matter of much dispute. Though probably most of these backcountry firebrands went over to the cause of Independence once threatened by invasion—particularly by invasion from British Indians, Tories, and red-coated former slaves. Only then was fellow feeling between the two ends of the state established—in the crucible of war. North Carolina is the model for Populist rebellion gone astray—and a warning to would-be Tryons and Berkeleys of another day.

* * *

For the scholar who has just examined these materials, it is not too difficult a labor to construct out of them a composite overlay and then to fit it down over the American Revolution as a whole. Only George III was not able to draw upon a power beyond himself for military support. And the "mob" demanding that old conditions be restored, the rights of Englishmen observed, and imperial politics conducted by the rule of interdependence altogether too numerous to be dispersed. For Lords Proprietors and grasping royal governors, read the King's friends in Parliament, Lord Bute, and George III. And for placemen, read the Crown's officials in the new world—particularly those sent over from England to assert the prerogative and recoup damaged fortunes. For the abstractions of Oglethorpe, read "undivided sovereignty" and "unconditional submission"—the catch-phrases of the war party of England in 1775.

Precisely how the Populist rebellions in the British colonies of North America fed into the general revolution which they made is a vexed question. Though the manner in which subsequent popular

champions opposing the abuse and concentration of power appealed to the precedent of the American Revolution tells us that its usefulness as an authority in Populist rhetoric has never in our national history been ignored. Or understood in a way very much in conflict with the reading here advanced. Consider, for instance, the elections of 1800 and 1828. They are germane to the subject. The difference between the Jefferson as sectionalist and master of the "politics of deference" and Jefferson the private *philosophe* is finally receiving the attention it deserves. And, Professor Schlesinger notwithstanding, the myth of Andrew Jackson as egalitarian collapses swiftly for those who have examined his campaign literature and then made a brief visit to the Hermitage. In the election of both men the point of division was conduct on the part of Federalist centralizers in power contrary to what Patrick Henry called "the genius of the people"—an inorganic relationship between government and people governed. The situational form, the gestalt, was completed by the appearance of a man who could articulate without compromise the circumstances in effect and convert a sense of injury into a functional political machinery.

For the century following 1865, it was difficult to employ the Populist model in the arena of national politics. For Populism as a strategy requires a homogenous base; and that kind of ground was difficult to find outside of a South whose political influence had been diminished by Secession and defeat. Populist rebellions therefore tended in this period to be local or state phenomena, though the Tillmans, the Watsons, the Murrays, and the Talmadges continued to employ the ancient authorities in making their campaigns. But homogeneities are of many kinds. And as the nation's population shifts, and the "bloody shirt" is finally put to rest, it is once again possible to build a strategy upon a Southern base: a base able to restrain what I perceive to be a tendency of Northern Populism, when operating on its own, to drift slowly to the Left.³⁴ Under these circumstances, and once phony Populists are exposed, what is here identified as an unbroken stream may flow once again into the current of our national life. And we hear

Word from the Forks of the Creek

again, when those very late returns come in from "way up by the forks of the creek", that the spirit of the original Republic yet survives.

NOTES

1. See C. Vann Woodward, "The Populist Heritage and the Intellectual", pp. 141-166 of *The Burden of Southern History* (Baton Rouge: Louisiana State University Press, 1960). On p. 153, he speaks of Populism as "interest politics", not "class politics". On Populist replacements of established moderate leadership in both North and South in the years preceding the Secession, see David Brion Davis, *The Slave Power and the Paranoid Style* (Baton Rouge: Louisiana State University Press, 1969).

2. Berkeley was recalled in 1677. See pp. 338-362 of Morgan's *American Slavery, American Freedom: The Ordeal of Colonial Virginia* (New York: W.W. Norton & Company, 1975).

3. See Thomas Perkins Abernethy, *The South in the New Nation, 1789-1819* (Baton Rouge: Louisiana State University Press, 1961); also Charles S. Sydnor's *American Revolutionaries in the Making: Political Practices in Washington's Virginia* (New York: The Free Press, 1965).

4. P. 54 of Francis Butler Simkins, *The History of the South* (New York: Alfred A. Knopf, 1959).

5. *Ibid.*, p. 49. They stand in relation to constituted authority as the English "Country Party" always stood with regard to London and the Court. Sometimes Old Whigs, and sometimes Tories, these men asserted always what was required by a common identity as Englishmen. And they made their case at law, in a constitutional argument, with no suggestion of an alteration in forms, but only an appeal that they be employed to strengthen the national spirit of confederation and corporate life. It is a great mistake to confuse these men with a few radical Whigs who took up their cause. But it is also a common mistake.

6. Most of this narrative depends on Morgan, pp. 250-270; and on Wilcomb Washburn, *The Governor and the Rebel* (Chapel Hill: University of North Carolina Press, 1957).

7. Where king or prince is censured for failure to perform the duties of his station.

8. Bernard Bailyn says, in his "Politics and Social Structure in Virginia", pp. 193-214 of *Shaping Southern Society* (New York: Oxford University Press, 1976), ed. T.H. Breen, that Populist rebellions in the new American colonies "reveal a new configuration of forces which shaped the origins of American politics." Bacon's Rebellion, he continues, replaced an artificial gentry with the real gentry of Virginia. For once we agree.

9. See Morgan, p. 273.

10. The quote from Bacon is in Morgan, p. 266.

11. On the decline of Bacon's support after his burnings and confiscations, see p. 23 of Jay B. Hubbell, *The South in American Literature, 1607-1900* (Durham: Duke University Press, 1954).

12. Morgan, p. 364.

13. Maryland had, early on, both Roman Catholic and Puritan components in its population—a problem not experienced in other Southern colonies. See Wesley Frank Craven, *The Southern Colonies in the Seventeenth Century, 1607-1689* (Baton Rouge: Louisiana State University Press, 1949).

14. Useful comment appears in Verner W. Crane, *The Southern Frontier, 1670-1732* (Ann Arbor: University of Michigan Press, 1956), pp. 162-234; and in Clarence L. Ver Steeg, *Origins of a Southern Mosaic* (Athens: University of Georgia Press, 1975), pp. 1-53.

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15. Published in London, 1720.
16. Crane, p. 217.
17. Ver Steeg, pp. 69-102; Crane, pp. 281-325.
18. *The Clamorous Malcontents: Criticisms and Defenses of the Colony of Georgia, 1741-1743*, Introduction by Trevor R. Reese (Savannah: The Beehive Press, 1973).
19. Ibid., pp. 36-52.
20. Ibid., pp. 43 and 45.
21. Ver Steeg, pp. 95 and 100. He quotes from original documents, letters, and petitions.
22. Ibid., p. 89.
23. Jay Hubbell, p. 84, quotes Samuel Quincy, who, once returned from Georgia, reported that the trustees "designed to establish arbitrary government, and reduce the people to a condition little better than slavery." It was always their plea that the new settlers of Georgia, given their mixed backgrounds, needed close supervision.
24. *The Clamorous Malcontents*, pp. 23-26.
25. Ibid., p. 24.
26. Except for an interesting section on John Wesley and "moral tyranny" in early Georgia. And even that does not alter either form or meaning.
27. Ver Steeg, p. 99.
28. *The Clamorous Malcontents*, p. 86.
29. To be fair, some of these complaints were overstated. And some produced corrections before violence broke out. Regulator spokesmen were a mixed lot.
30. See Hugh T. Lefler and William S. Powell, *Colonial North Carolina: A History* (New York: Charles Scribner's Sons, 1973), pp. 217-288. Also Carl Bridenbaugh, *Myths and Realities: Societies of the Colonial South* (Baton Rouge: Louisiana State University Press, 1952), pp. 41-45.
31. Lefler, pp. 234-237.
32. See William S. Powell, et al., *The Regulators in North Carolina, A Documentary History, 1759-1776* (Raleigh, 1971).
33. See Lefler, p. 237, on the passage of Johnston's Riot Act of January 15, 1771; this law, which allowed for the moving of trials to a setting favorable to prosecution, sparked the violence at Hillsborough.
34. Some Populist uprisings in the North are, to be sure, not at all to the Left. Witness the old Whiskey Rebellion. And some Southern Populists, like Huey Long, are radical to the core.

PART II

A BETTER GUIDE THAN REASON: THE POLITICS OF JOHN DICKINSON

I

Of all the men significantly involved in the major events leading up to and following from the American Revolution none has been so undeservedly neglected by our political historians as the mysterious John Dickinson. The oversight would seem on its face unlikely. For this planter and prototypal Philadelphia lawyer is as complicated and intellectually interesting as any American politician of his era. Furthermore, the bulk and variety of his political writings (alas, never fully collected) is unmatched by any of his contemporaries. And, contrary to the inference which we might also draw from the silence of the scholars, his voice was always heard. Which is precisely why he has been systematically ignored. What we should recognize is that the very fact of Dickinson's influential career undermines cherished theories of our national origins. If he is more useful in telling us what his times signified than are some of the Fathers we have been taught to reverence as the true progenitors—more useful than Paine, or Madison, or even most of Jefferson (the “advanced”, private opinions)—then the authority of many components of what we now recognize as the American political religion or *telos* and the manner of thinking which has generated these ends is called into question. *And he is!*

For John Dickinson was one of the best educated, most respected and most eloquent of the public men who brought us, with character and argument, to and beyond the choice for in-

dependence. In two states (Delaware and Pennsylvania) his influence was dominant—so great that he was for a few months, in 1782, governor of both at the same time. He was honored in all the colonies. And he is almost without rival in sustaining this influence throughout the new nation's formative years, from the Stamp Act Congress (1765) to the Constitutional Convention (1787). The record of his performance in practical politics alone would require a study of two volumes. From such a book we could learn a great deal about the care and management of republics. However, it is with Dickinson as acknowledged spokesman and apologist, as political thinker, that we are here concerned. From that Dickinson we can correct our misapprehensions of the bias of our institutional beginnings. And thus stand ready to recover the patrimony of which we have been so carefully deprived.

Our focus here must fall particularly upon Dickinson's most famous and influential composition, the memorable *Letters from a Farmer in Pennsylvania*.¹ For it was through this work that he shaped the spirit of the Revolution and put his mark upon it long before Paine or Jefferson or the other "radical Whigs" could say a word on the subject: before they could get a chance to give to the American position another (and very different) intellectual base and impetus. Because John Dickinson did not wish to sign the Declaration of Independence when his associates called for the vote, it is easy to forget that this reluctant rebel had said or written *prior to 1776* more to propel his countrymen to the brink of that decision than any other representative of the exasperated colonies who signed the document with ease. And particularly in his twelve performances as what toasting patriots, from Charleston to Falmouth, called with affection "the Farmer". Had indeed done so much that he could not help but know, long before that fateful July day, that a severance was bound to come.²

Yet still he felt obliged to deny the principle of revolution, even as he maintained the right. As he had done in the *Farmer's Letters*. As he had done since his first appearance in public office, as a member of the Delaware assembly in 1760. For, like no other American political thinker, John Dickinson had absorbed into his very bones the precedent of 1688. In abbreviated form, that creed might be abstracted as follows: The English political identity (the

Constitution in its largest sense, including certain established procedures, institutions, chartered rights and habits of thought) is a product of a given history, lived by a specific people in a particular place. Executive, judicial, and legislative arms of government are bound by that prescription and must deal with new circumstances in keeping with its letter and spirit. The same configuration *qua* Constitution should be available to all Englishmen, according to their worth and place, their deserts. And any man, upon his achievement of a particular condition (freeholder, elector, magistrate, etc.) should find that his rights there are what anyone else similarly situated might expect. Finally all Englishmen are secure against arbitrary rule under this umbrella and have an equal right to insist upon its maintenance. To so insist, even to the point of removing an offending component by force, is *loyalty* to the sovereign power.³ To submit to "dreadful novelty" or "dangerous innovation", even if its source is a prince or a minister who came rightfully to his position, is treason.⁴ For the authority belongs to the total system, not to the persons who operate it at a given time. Or rather, to such persons as "stand to their post" and attempt with and through it nothing contrary to the purpose for which it has been developed. It was this historic and legal identity, formed over the course of centuries by so much trial and error and with such cost and turmoil, which was deemed to be worth whatever efforts its preservation might require—even the danger of being called a rebel—because it was the best known to man.⁵ And therefore the most "natural" and conformable to reason. To correct any declension from such experienced perfection was thus clearly more than patriotic. Like the Glorious Revolution itself, it could be called an assertion of universal truth.

Dickinson, of course, recognized that the adoption of the 1689 Bill of Rights marked an addition to and evolution from the more compact, prescriptive England which demanded the "abdication" of James II: was some sort of a change, even if made in the direction of officially recovering "Anglo-Saxon purity".⁶ That any such specification of liberties entailed a potential shift in the relation of people, King, and Parliament could not have escaped his notice. An attempt to shift the balance between the elements of a total political mixture, once initiated by one of its components, precludes a

precise restoration of things as they were—blocks that path, even if the attempt to force alteration is forestalled! Furthermore, steps must be taken to prevent a repetition of offence to the whole. As in the Great Charter itself, limits of authority must be written down, and these writings given status through institutions. Hence, even before the American counter-revolution within the larger English prescription came down to fighting, before the folly of Lords North and George Germaine led their master, with the “Proclamation for Suppressing Rebellion and Sedition” (August, 1775), to “dethrone” himself in North America, Dickinson moved to preserve the order of things he had known and loved since boyhood.⁷ Acted first to secure inter-colonial co-operation in the Stamp Act Congress. Acted then, when the conflict grew, to replace all or part of what had been the executive power of Crown and mother Parliament, first with a Continental Congress (he was among its earliest and strongest supporters) and then with Articles of Confederation (for which he composed the original draft). The only alternatives to these gestures toward preservation and ordered liberty were something like commonwealth status for the troubled colonies or the internal anarchy of no general government whatsoever—thirteen separate rebellions, each conducted almost unto itself, but in conjunction with local, almost discrete, civil wars.⁸ Yet all that he made before, during, and after hostilities (when he served in the Constitutional Convention at Philadelphia and as the presiding officer at the Annapolis gathering which called for that more ambitious assembly) rested upon what already had being—extant societies, with an accepted culture, law, economy and government. And he framed these substitutions from necessity alone, *because* familiar arrangements and channels for negotiation had been forever destroyed. In other words, framed them to protect, not “found”, as changes made in discovery but not in creation.

Indeed, discontinuity and raw innovation, “dangerous innovation”, was Dickinson’s antagonist at every turn, throughout his career.⁹ And his name for that novelty was almost always “submission”.¹⁰ Even when, in his first political struggle, he opposed replacement of the proprietary charter and the legal structure of unquestioned liberties established for Pennsylvania by William Penn, his concern was to preserve the protection of law and to avoid

rule by fiat. The slender Quaker was, we must remember, a rigid constitutionalist, trained in the Middle Temple. Obedience to King or Parliament, so long as they operated according to law, or, in Selden's words, "the custom of England, which is part of the law of the land" was "due submission" to the Constitution. And this obligation Dickinson acknowledged at every opportunity. Yet the basis of his argument was consistent. Always he saw his position, prior to the official secession of the colonies, as parallel to that of the common lawyers who opposed excessive Stuart claims of prerogative.¹¹ Or, to narrow the comparison even further, colonial Whigs of Dickinson's breed came to find themselves standing in the shoes of Falkland and Hyde. The choice of rebellion *or* submission seemed to them a false dilemma. Both violated the Constitution. But, of the two, the latter course was, in the 1770's, clearly more dangerous for Americans—if neither party would agree to anything less than all that they asked.

Dickinson called revolution a "poison". But even as early as 1774 he could add to that definition that the poison of revolution, though terrible, might be an "antidote" to a poison even worse.¹² Faced with the language of vengeance and not sense, of violence and not of reason, with mere survival in doubt, so would any true man say.¹³ And certainly a true Englishman, one proud to declare that "every drop of blood in my heart is British."¹⁴ Once reduced to the "alternative of chusing an unconditional submission to the tyranny of irritated ministers, or resistance by force", Dickinson did not draw back from the decision he had hoped to avoid. And once the Howe expedition had produced in North America a more general "sentiment for independency", he would, later in 1776, probably have proposed a Declaration of his own to mark the division England had made. As I argued above, he had recognized this possibility from the beginning of acrimonious exchange. In 1765 he had written that "... we can never be made an independent people, except it be by Great Britain."¹⁵ And he added, at about the same time, that attempts to enforce British views of the taxing power by military means would amount to "a Declaration of War against the Colonies."¹⁶

Made is, to be sure, the operative term. If forced into existence on the basis of strict legal arguments, the new nation could hope to keep intact the established order of American life. And if less than

independence could, by some chance, serve the same ends, then all the better. What was, however, most important to Dickinson was that difficulties and differences be settled on certain grounds, according to a certain logic or theory of government, either with or without a rupture with England; that the future life of his countrymen follow a set of assumptions neither absolutist nor merely democratic; and that no American's person or property should be secured by so little as "the precarious tenure . . . of will."¹⁷ Even long after the fact of independence, when, as an old man, Dickinson gathered a collection of his political writings, he cited in preface once again the authority of Lord Chatham and the British Constitution.¹⁸ We came free, in his view, under no other auspices, no larger structure of abstraction, with authority above and beyond the social bond. Rebellion *per se* is not a healthy *method* for reinvigorating society or securing human liberty. Only revolution that is not revolutionary, that is a "child of necessity", can be called American.¹⁹ With these distinctions in mind we can grasp the teaching of his political essays. And particularly of the *Letters from a Farmer in Pennsylvania*.

II

The *Farmer's Letters* first appeared in colonial newspapers—in all but four of them—during late 1767 and early 1768.²⁰ After serial publication, the set was gathered as a pamphlet in Philadelphia, Boston, New York, and Williamsburg. Later editions issued in London, Dublin, and Paris became a staple of European political conversation. American replies and comments were legion. For colonials Dickinson's work had only one rival among pre-revolutionary documents—Paine's *Common Sense*. And that late work served very different purposes, under very different conditions. I so insist because John Dickinson's performance reached *thoughtful*, literate Americans when the position they as a group were likely to assume, if the quarrel over British authority continued, was very much in doubt. And by settling that question in 1767, insofar as political argument can be said to settle anything, he accomplished a task far more difficult than getting colonials in general, in 1776, to hate George III and to blame him for the dis-

ruption of their lives. Here again the scholarship is at fault. Thomas Paine "shot fish in a barrel". He roused the passions and hates. He gave to Anglo-American amity the last little push required to remove it as an impediment to independence. And he engaged as a primary audience an element of the colonial population not, prior to 1775-1776, very much interested in the dispute over law. However, had the legal case not been well established, set in the full context of British history, and long before Paine wrote, he would have thundered out his anger to no purpose at all. For the people who assumed the position Dickinson drew up in reaction to the Townshend Acts (and to the Stamp and Declaratory Acts which preceded them) were the Americans needed to make a revolution work: and to make it (given British stubbornness) inevitable. They, by accepting Dickinson's learned, calm, and deliberate exposition of a case *at law* and *from history*, were, it turns out, committed to such a revolution, whether they knew it or not. And, because they were, thanks to the deferential quality of colonial politics, the Americans who determined the policy followed by their particular communities. John Dickinson made resistance respectable. With the help of English Whigs educated in the theories he applied to particular disputes with the Crown, he also made submission impossible. Paine simply made a useful noise.

The manner of Dickinson's twelve letters is well suited to their matter. In form they belong to the "high" or "sober" tradition of English pamphleteering—as does *Common Sense* to its "rough and ready" but popular counterpart. In the one company we find Milton, Swift, Addison, and Burke—plus numerous other deliberate and magisterial considerations of important public questions issued through (or from the shelter of) some usually transparent classical persona: "Cato", for instance, suggesting not personal feeling but public spirit. Cicero's epistles were the archetypes for these performances. For almost two hundred years these pamphlets formed a pattern of serious, intelligent exchange on affairs of the day unmatched in any other free society. The other quasi-prophetic school had its roots in the Puritan revolution and the emotions antecedent to that explosion. It found its model in the Scripture. It tended toward the merely personal, the paranoid, and the pugnacious. Usually its object was to draw the adversary's

blood. Some English writers had skill in both veins. But not serious, "old-school" Whigs: not men (ordinarily lawyers) who believed in the prescription of British history and the importance of circumstance in interpreting what a precedent means when a prudent choice must be made. For the deepest teaching of that history was that persuasion, even if incomplete, leaves the social bond intact. Calumny, claims of divine sanction, and rigid arguments from definition (asking, for instance, "What is man?" or "What is a republic?") have a contrary effect. John Dickinson could foresee who might listen to a discussion of the sort he had in mind. And he also knew how important their opinions might turn out to be.

Dickinson's mask as "farmer" thus predicts what kind of discourse he intends before we have begun to read. Also the date assigned to his opening letter: November 5, when "Good King Billy" first landed in England. Like most Whig traditionalists, the Pennsylvania farmer nods toward the example of Republican Rome. In that segment of ancient history the notion of "public virtue" received its original definition and the idea of corporate liberty, liberty under law, was given meaning.²¹ A farming gentry had governed that state, a proud class, conscious of its nation's history, devoted to preserving its laws and customs. And the same kind of men, the "country party", called William III to the throne of England. Furthermore, the voice of the farming gentry is what we hear in most Roman literature. And also in much eighteenth century English writing. Dickinson's self-representation is somewhat more modest than what we get from his English counterparts. And also more the lawyer. This pillar of the Philadelphia bar and Delaware planter was, in fact, a major figure in the unofficial colonial aristocracy. Yet persons not formally aristocratic though possessed of legal training were, from earliest settlement, the accepted leaders of colonial society. And the best respected of the lot were planters well read in law but with a passion for public service, a sense of the communal good: unassuming legal scholars not defined by size of practice or collection of fees. Hence Dickinson's opening lines:

I am a *Farmer*, settled, after a variety of fortunes, near the banks of the river *Delaware*, in the province of *Pennsylvania*. I received a liberal

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education, and have been engaged in the busy scenes of life; but am now convinced, that a man may be as happy without bustle, as with it. My farm is small; my servants are few, and good; I have a little money at interest; I wish for no more; my employment in my own affairs is easy; and with a contented grateful mind, undisturbed by worldly hopes or fears, relating to myself, I am completing the number of days allotted to me by divine goodness.

Being generally master of my time, I spend a good deal of it in a library, which I think the most valuable part of my small estate; and being acquainted with two or three gentlemen of abilities and learning, who honor me with their friendship, I have acquired, I believe, a greater knowledge in history, and the laws and constitution of my country, than is generally attained by men of my class, many of them not being so fortunate as I have been in the opportunities of getting information.

The library holdings of colonial leaders speak out plainly: a familiarity with constitutional theory, and therefore knowledge of the history where inherited constitutional rights were developed and are defined, went with public virtue. Men with such discipline were a security to the liberties of those confederated with them. In them the digested experience of a united people survived. And therefore their hope of a future.

We may thus conclude, with little doubt, that the strategy behind Dickinson's rhetoric is to appear deliberate, to project repose, patience, and gentlemanly firmness and to treat his English antagonists as if their persistence to the contrary were a surprising lapse from their ordinary good sense.²² Resting upon this air of mastery, he then builds, from specific (immediate) and theoretical (long term) objections to the Townshend Acts, the Mutiny and Restraining Acts to frame (out of English and Roman history, in particular) an appeal to the honor and patriotic spirit of his fellow Americans. And all of this said disarmingly, as if no rhetoric at all were involved. Only up to a point will he specify where this recommended determination might lead. Balanced against protestations of loyalty is a small warning of its limits. But the disinterested farmer leaves no room at the end of the spectrum. What Americans cannot do is made very plain. They cannot agree to a revenue tax!

But why such excitement over so inconsequential a matter as duties upon paper, glass, lead, and tea? The Crown revenue to be generated by these customs was small indeed. The Stamp Act had been repealed. Parliament agreed that it had been a mistake. And the Declaratory Act, reserving the right to tax, was merely a device for saving face, passed (we should remember) by the strongest parliamentary supporters of colonial liberty. To see the question as did Dickinson and his countrymen, we must recognize that the danger of a secret conspiracy to consolidate political and economic power, and thus to subjugate all Englishmen, both at home and abroad, seemed altogether possible.²³ Wrote Dickinson, “. . . the passion of despotism raging like a plague . . . has spread with unusual malignity through Europe (and) . . . has at length reached Great Britain.”²⁴ That the progress of a tyrannical design should move from the colonies, inward, to attack the Constitution within Great Britain with resources drawn from over the seas was a common speculation. Moreover, no colonial theorist of importance (and I include here many Tories, such as Dickinson’s old enemy, Joseph Galloway) doubted that colony and homeland were separate legal entities—made by the charters two branches from one stem.²⁵ Even the wicked ministers of the King conceded this—though to a very different purpose. Hence the vigorously drawn distinction between revenue and administrative tax. Regulation of trade was clearly imperial business. Like the foreign policy of English dominions in general. But every page of Whig history spoke to the question of taxes levied but not voted and enforced by standing armies.²⁶ When these two innovations appeared in company, during a specific reign, the negotiated balance of government and subject was in peril and conflict just over the hill. Large garrisons, royally appointed judges, and taxes to produce revenue (as opposed to supplies for the small colonial establishment) had not been a part of the King’s presence in North America. The colonial assemblies had “granted” to their sovereign what his duties required. That the English Parliament, acting under an evil “influence”, now ‘relieved them of this responsibility seemed a dangerous precedent—a precedent of the kind against which Sir Edward Coke warned in his *Institutes*—under whose aegis the social family of reciprocal rights and responsibilities might collapse into

something arbitrary and oriental; a precedent fatal to liberty, in that word's older English sense. Which is the bottom line in what Dickinson's dignified "farmer" has to say.

From an understanding of these concerns we can move toward a reading of the *Farmer's Letters* as a sequence or design: three papers on the suspension of the New York legislature, the Townshend Duties, the necessity of remonstrance, and the non-intercourse agreements. They serve as an overture to the nine papers that follow. The last two of these function as a peroration for the set: an appeal for unity and a salute to the value of liberty, all of it spun out with some elaboration and elevation of tone. The total pattern turns on letters three and ten. The first of these has to do with the tactics and spirit of a proper resistance: the tactics and spirit which will get the job done. Here he speaks to moderate men of how painless and reasonable his form of resistance (unofficial embargo) will turn out to be. Letter ten is of an opposite, almost inflammatory disposition: concerning the utmost limits of "misery and infamy."²⁷ Here Dickinson aims to frighten with an image of plunder under cover of law and the prospect of immigrant officeholders, consuming, without let or hindrance, the substance of colonial prosperity.

He imagines a history for these developments in the following terms:

Certain it is, that though they had before their eyes *so many illustrious examples* in their mother country, of the *constant* success attending *firmness* and *perseverance*, in opposition to dangerous encroachments on liberty, yet they quietly gave up a point of the LAST IMPORTANCE. From thence the decline of their freedom began, and its decay was extremely rapid; for *as money* was always raised upon them by the parliament, their *assemblies* grew immediately *useless*, and in a short time contemptible: And in less than one hundred years, the people sunk down into that *tameness* and *supineness* of spirit, by which they still continue to be distinguished.
(Letter X)

The letters standing between these two all concern taxes and the probable consequences of altered tax policy. They deal with liberty, inherited rights, and the comprehension of these imperatives within the antipodes of letters three and ten. With that comprehension

achieved, the "farmer" is ready to admonish. He has moved his reader from a measured resentment of British policies and their immediate results to a deeper fear of what could be their final costs: from attention or interest, to initial judgement, to consideration in detail, alarm and final full engagement—calling on both head and heart to act. The structure of the entire *Letters from a Farmer in Pennsylvania* is therefore proof of a considerable craft at work. And part of the meaning which that craft has produced.

III

With the evidence examined to this point we may hope to reconstruct John Dickinson's conception of the role of government and its relation to a healthy society. For Dickinson's political writings, though occasional in origin, reflect settled opinions on these topics: opinions in evidence at every point in his long public life. And this teaching at this level deserves careful, unanachronistic exposition. Indeed, what he says about "natural" and "political" rights alters drastically our perspective on what eighteenth century Americans meant when they invoked such terms. And therefore our view of the corporate identity which is ours by lawful entail.

To begin, government and society were not, in the eyes of our subject, synonymous terms. To encourage men to perform the virtue of which they are capable, and thus pursue their happiness, as persons and as a community, is the final end of government.²⁸ Yet its means to such an end are not social policies or teleological commitments to the achievement of some abstractly conceived state or condition or national dream of grandeur. Enlightened self-interest is only one consideration in this process. The need for fellow feeling and interdependence, for a corporate sense achieved through free choice, counts for just as much. (Remember the constant emphasis on unity of action in the *Farmer's Letters*.²⁹) In the opinion of Dickinson, government is *law*—law which allows society to grow and flourish. Its terms and specific properties derive from an anterior social reality, not the other way around. It is a set of "ground rules" or agreed-upon procedures, found in the course of their history to be reasonable and conducive to the general happiness of those

whom it binds into nationality. And even the meaning of liberty (clearly, Dickinson's "god term") is restricted by these rules.³⁰

Dickinson, like many other colonials and English "Old Whigs", speaks at times of "rights essential to human happiness" that are not "gifts" of princes but "are created in us by the decrees of Providence which establish the laws of our nature."³¹ But between these and the "historic rights of Englishmen" he marks no distinctions.³² And about the latter he speaks incessantly.³³ The reasons behind this conflation are not far to seek. The paradox is in our minds, not in the thinking of our subject: in the deductive, rationalist habits we have borrowed from the *philosophes*, not in the prudential calculus of the Whigs. Like others with his education, Dickinson does not think of natural rights apart from their incarnation in historic rights, as logically prior to the social matrix where they took root. That incarnation, they recognized, might be imperfect—even, as I said above, where human liberty was concerned. But to destroy the continuum where historic rights can survive by reaching for an *a priori* definition is to risk a sad declension from what *real* ancestors under *real* difficulties have achieved: to risk, as Dickinson expressed it with one forceful analogy, making oneself into an illegitimate son.³⁴

Men are made social, to exercise their abilities in society and under the conditions of government which, given the flaws in their nature, come closest to making that exercise possible. Those rights which produce a balance of liberty and order, the highest in human felicity, are most natural. When government acts against that balance, there is difficulty. So history reveals, telling us by negations for what condition we were made. And when government misconceives of its function, behaving as if men existed for its sake and not the other way around, the error is absolute. The natural or "inherent" right of self-preservation figures in this conception. Positive law, when it renders a whole people absolutely subject and thus destroys society, can expect to engender a rebellion. Yet, apart from such mistakes, the specific rights which prevent statist denial of man's providential destiny are not "parchment guarantees" of *Justice* or *Equality* or *Freedom from Fear*. Dickinson talks instead about trial by jury, self-taxation, petition, local responsibility for judges,

and a well-ordered militia. Consider the particulars of his "A Petition to the King from the Stamp Act Congress" and all of his other statements in behalf of his countrymen made thereafter, up to and beyond the "Declaration and Resolves of the First Continental Congress, Oct. 14, 1774."³⁵ That his "inherent rights" are thus defined, when we recall how typical of American sentiment he was, should encourage us to ask again what occasional use of broad general terms meant in the great documents of the era of our Revolution: meant to those who assented to their promulgation. And I include here the Declaration itself!

IV

John Dickinson continued the same sort of non-theoretical Whig after independence had been achieved. That his objection to the timing and vehement language of the Declaration of Independence did not contradict his emphasis on concerted action he proved under arms in New Jersey and at Brandywine. And thereafter in political service in Delaware, Pennsylvania, and the Continental Congress. We needed an official instrument, linking the free commonwealths in their recalcitrance before we severed their connection in the older Constitution: and thus destroyed their roots in that deposit of liberties. Furthermore, there was a danger from "mobbish Boston" and the "licentious elements" in New England.³⁶ Alienation from the precedent in those quarters might produce a complete collapse of law into mere democracy: "the precarious tenure of will." Two American republics could result from the release of such forces; and neither would survive.³⁷ According to Dickinson's apology for his conduct in those days, he had always a horror of performing "experiments" upon the body politic.³⁸ And for the same reason he signed and then affirmed in print the Federal Constitution which he, as a delegate from Delaware, had helped to compose.³⁹ In his eyes it preserved both the "sovereignty" of the states *and* their union, allowed for no judicial review, no imperial president, no expensive establishment, and no "democratical excess". Was, in other words, no "experiment" or arbitrary construction doing violence to the larger Anglo-American identity. And when, once in office, other ostensi-

ble Federalists found in the document an authority for "energetic", centralist construction of the government's power, Dickinson went over to Jefferson as its true expositor. Finally, in his last days, he thundered against the French Revolution and the would-be Caesar it released upon Europe as a "reign of monsters" likely to swamp all Christendom with a terrible synthesis of "atheism and democracy".⁴⁰ In the Constitutional Convention his constant theme was "warm eulogiums of the British Constitution", dread of innovation, and devotion to corporate liberty.⁴¹ And nowhere more forcefully than when the sanction of mathematical logic was invoked against the predominance of the House of Representatives in the initiation of money bills. His address on that occasion may properly serve as a summary of his entire political career.

In response to the cunning Mr. Madison, Dickinson declared:

Experience must be our only guide. Reason may mislead us. It was not Reason that discovered the singular and admirable mechanism of the British Constitution. It was not Reason that discovered or even could have discovered the odd and in the eye of those who are governed by reason, the absurd mode of trial by jury. Accidents probably produced these discoveries, and experience has given sanction to them. This then was our guide.⁴²

The eminently reasonable lesson that John Dickinson offered that day is one that he followed to the end. He belonged to the party of memory; and nothing very important in the political history from which we derive was, in his public conduct, ever forgotten. Of the generation which shaped our form of government and then set it in motion, few speak to us with such corrective force. His life embodies the American political prescription. As each new wave of political geometers pours in upon us, his is an order and sophistication of experience which we shall very much require. And a teaching needed to guide us on our perilous way.

NOTES

1. The last convenient edition (now out of print), with a perceptive introduction by Forrest McDonald, was printed with Richard Henry Lee's "Letters from the Federal

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Farmer" under the general title of *Empire and Nation* (Englewood Cliffs, N.J.: PrenticeHall, Inc., 1962).

2. See John C. Miller, *Origins of the American Revolution* (Boston: Little, Brown and Company, 1943), p. 477; also H. Trevor Colbourn, *The Lamp of Experience* (Chapel Hill, University of North Carolina Press, 1965), p. 118.

3. Dickinson cites Lord Camden and the statute *quo warranto* 18th of Edward I. See *The Political Writings of John Dickinson, 1764-1774* (New York: Da Capo Press, 1970), edited by Paul L. Ford (originally published 1895), p. 485. From Coke to Chatham ran the argument that law bound King and Parliament. See the famous Dr. Bonham's Case, 8 Coke 118a (1610). Also Herbert Butterfield, *The Englishman and His History* (Hamden, Conn.: Archon Books, 1970).

4. See Colbourn, p. 115 and Charles H. McIlwain's *The American Revolution: A Constitutional Interpretation* (New York: The Macmillan Co., 1923), p. 23. Also *Works*, p. xvii.

5. On Dickinson and the Whig legal tradition, see Charles J. Stillé, *The Life and Times of John Dickinson* (New York: Burt Franklin, 1969), pp. 21-34 *et seq.* This is a reprint of the 1891 biography by a representative spokesman of the Philadelphia bar, and a great adversary of New England "isms". Puzzlement that there is no modern biography of Dickinson is frequently expressed in the scholarship. See Frederick B. Tolles' "The Historians of the Middle Colonies", pp. 70-71 in *The Reinterpretation of Early American History*, ed. Ray Allen Billington (New York: W.W. Norton & Co., Inc., 1968).

6. See Clinton Rossiter, *Seedtime of the Republic: The Origin of the American Tradition of Political Liberty* (New York: Harcourt, Brace & World, Inc., 1953) p. 398. William Henry Drayton speaks of George III as having "unkinged" himself.

7. Colbourn, p. 116; also Carl Bridenbaugh's *The Spirit of '76* (New York: Oxford University Press, 1975), p. 99, where he quotes the young Dickinson in England speaking of Pennsylvania as "our country" which can "bear no comparison with any other place."

8. Like the elder Pitt, Dickinson always considered commonwealth status as the most desirable solution.

9. In his "Essay on the Constitutional Power of Great Britain" (1774), he speaks of "dependence on the Crown" or "on Parliament" in analogy to "the engine of the Greeks for the destruction of Troy." Dependence is the opposite extreme of independence. Dickinson's object, at every point, was to defend ancestral walls against the breach of such innovation.

10. The only peril given an almost equivalent importance was that of anarchy.

11. See C.V. Wedgwood, *The King's Peace* (London: William Collins Sons & Co., Ltd., 1955). In using this analogy, Dickinson echoed the best of contemporary English Whig opinion. Dozens of attorneys trained at the Inns of Court led the Southern and Middle colonies to adopt the "Old Whig" position during our Revolution. Almost no New England lawyers had that training. Hence their political thought, under the influence of Puritan political theory, tended toward a "natural rights" position. See Stillé, pp. 26-27. Also W.H. Greenleaf, *Order, Empiricism and Politics: Two Traditions of English Political Thought, 1500-1700* (New York: Oxford, 1964).

12. *Works*, p. 491.

13. General Henry Conway, in a 1776 debate in Commons, is the source of this language, quoted on p. 199 of Thomas Fleming's *1776: Year of Illusion* (New York: W.W. Norton & Co., 1975). Conway is typical of the "Country Whig" in connecting "fundamental" or "natural rights" with simple self-preservation. The American reaction to the Howe expedition that he predicts (and he was correct) parallels what Lincoln got from moderate Southerners when, in 1861, he prepared to call for 75,000 troops to invade Dixie.

14. *Works*, p. 267.

15. *Ibid.*, p. 241.

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16. See p. 15 of *The Making of the American Republic: The Great Documents, 1774-1789* (New Rochelle, N.Y.: Arlington House, 1972), ed. by Charles C. Tansill. From "Declaration of Causes for Taking Up Arms".

17. *Works*, p. 469.

18. *Ibid.*, p. xvii. G.H. Guttridge in his *English Whiggism and the American Revolution* (Berkeley: University of California Press, 1963), p. 34, writes that "the Whiggism of Chatham was of that old order which placed the fundamental law of the Constitution beyond the reach of Parliament."

19. See David L. Jacobson, *John Dickinson and the Revolution in Pennsylvania, 1764-1776* (Berkeley: University of California Press, 1965), p. 109.

20. Page 241 of Merrill Jensen's *The Founding of a Nation: A History of the American Revolution, 1763-1776* (New York: Oxford University Press, 1968).

21. See my "A Teaching for Republicans: Roman History and the Nation's First Identity", *Intercollegiate Review*, XI (Winter-Spring, 1976), 67-81. (Reprinted elsewhere in this volume.)

22. Jacobson, p. 89. The same use of the pastoral overtones of a rhetorical mask appears in his "Song of the Farmer", the anthem of the Revolution. See Kenneth Silverman's *The Cultural History of the American Revolution* (New York: Thomas Y. Crowell, 1976), p. 114.

23. The best feature of Bernard Bailyn's *The Ideological Origin of the American Revolution* (Cambridge, Mass.: Harvard University Press, 1967) is his account of this "conspiracy theory". See pp. 144-150 *et seq.*

24. *Works*, p. 494.

25. See p. 96 of Carl Becker's *The Declaration of Independence* (New York: Vintage Books, 1958). Becker gives Dickinson credit for announcing what Lawrence H. Gipson says had long been, in 1774-1776, true: that the "colonies, in actuality if not in theory, had become states within the Empire." See p. 223 of *The Coming of the Revolution, 1763-1775* (New York: Harper & Row, 1962).

26. Guttridge, pp. 6-7.

27. *Empire and Nation*, p. 58.

28. Contrary to much early comment, Dickinson stood at a great distance from the commercial Whigs of Philadelphia. He censured them explicitly in "An Address Read at a Meeting of Merchants to Consider Non-Importation" (April 25, 1768), *Works*, pp. 409-417. He cites Locke rarely. Property is important to him as a precondition of responsibility. But the property which makes for virtue is land: "A landed interest widely diffused among the mass of the people, by the personal values of honest industry, fair dealing, and laudable frugality is the firmest foundation that can be had for the secure establishment of civil liberty and national independence." Quoted in Jacobson, p. 125.

29. See especially *Empire and Liberty*, pp. 77-79 and 83-85.

30. Christopher Hobhouse in his *Fox* expresses the moderate Whig view of liberty with a certain finality: "Liberty, like happiness, is most perfect when least remarked. As most misery is caused by the pursuit of an abstract happiness, distinct from the occupations that make men happy, so most tyranny springs from the struggle for an abstract liberty, distinct from the laws and institutions that make men free." (Quoted by Sir Arthur Bryant, *The Years of Endurance, 1793-1802* [London: William Collins Sons & Co., Ltd., 1975], p. 33.)

31. *Works*, p. 262.

32. Jacobson is always to the contrary on this point—and always wrong. See *Works*, pp. 183-187 and 193. For further support of my view see Douglass Adair, "'Experience Must Be Our Only Guide': History, Democratic Theory, and the United States Constitution", pp. 129-150 of Billington, *op. cit.*

33. See Colbourn, pp. 107-119.

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34. *Works*, pp. 274-275. Obviously, if liberties come to us as does our name, then equality has nothing to do with the idea. Neither do certain arguments from a definition of *Man*.

35. *Works*, pp. 193-196; also Tansill, pp. 1-9.

36. See Miller, p. 365; also Gordon Wood's *The Creation of the American Republic, 1776-1787* (Chapel Hill: University of North Carolina Press, 1969), pp. 45 and 205.

37. See Jensen, p. 509. Also John H. Powell's reconstruction of "Arguments Against the Independence of these Colonies—in Congress", *Pennsylvania Magazine of History and Biography*, 65 (Fall, 1941), 468-481.

38. Stillé, p. 370.

39. See his *Fabius* letters (1788)—a neglected counterpart to *The Federalist*.

40. Stillé, p. 282.

41. See pp. 56 and 77 of James Madison's *Notes of Debates in the Federal Convention of 1787* (Athens: Ohio University Press, 1966).

42. Madison, p. 447. For a recent interpretation of Dickinson which minimizes the importance of such passages see A. Owen Aldridge, "Paine and Dickinson," *Early American Literature*, XI (Fall, 1976), 125-138. A reading closer to my own is by John Dickinson, "The Political Thought of John Dickinson," *Dickinson Law Review*, XXXIX (Oct., 1934), 1-14.

ACCORDING TO THEIR GENIUS: POLITICS AND THE EXAMPLE OF PATRICK HENRY

Even before the first of our bicentennial celebrations began, it was altogether predictable that their emphasis should fall more upon the *what* than the *why* of events transpiring during and prior to our original War for Independence. According to those responsible, no controversy could follow from this procedure. There is, however, a danger in submitting to such probability and neglecting to redress the balance of emphasis toward interpretation. For, try as we will, there is no honest way of making our salute to the revolutionary forefathers into a non-partisan event.

What they attempted and achieved embodied a political intention and a theory of the politically good. And no less than the New Left distortions of the People's Bicentennial Commission, the supposedly value-free and "factual" accounts of our received historiography which stand behind the rites and ceremonies of our official and federally sponsored celebrations obscure that intent and theory. Standing in the way of the recovery of legitimate precedent which I here recommend is, of course, the Second American Revolution of our Civil War. But that is another study.

The more immediate obstacles to our understanding of what American colonials intended by their official separation from the mother country are the unrepresentative sentiments of intellectually interesting but sometimes deviant revolutionaries, such as James Madison, Thomas Jefferson, Benjamin Franklin, and Thomas Paine. In their stead, we should concentrate upon the thoughts and

actions of less curious men, such as John Dickinson, John Adams, and the taciturn Cincinnatus of Mount Vernon. And especially we should concentrate upon the thoughts and actions of that trumpet-voice of the Revolution—Patrick Henry of Virginia.

The great difficulty which we confront in reconstructing the thoughts of such active men as the Virginia Demosthenes is a paucity of detailed records and a shortage of that idol of scholars, written documents. For it is a paradox of intellectual history—a paradox rooted in human nature—that the men positioned on the outer fringes of the great events of an age write the most and the most interestingly about them, and the men at their center almost nothing at all. Or at least since the Renaissance it has been the rule that the modernist and secular philosophers of change have left us a record of their speculations upon happenings with which they had very little to do. Letters, tracts, and pamphlets have furnished them with an outlet which the public world of action did not provide. Yet thanks to the scholars, usually men of their own kidney, they have had a final victory through interpretation, a victory which stands between us and the actual deeds of more moderate and less ingenious men.

It is reasonable to claim that Patrick Henry was *the* characteristic American spokesman during the Revolution, the epitome of Whig sentiment in that era. As a young man he first threw down the gauntlet of constitutional challenge in the celebrated Parson's Cause (1763). His Stamp Act Resolves (1765) energized American resistance to usurpation in the thirteen colonies and led to the inter-colonial communication and co-operation which issued finally in the Continental Congress. And before the Second Virginia Convention of 1775, he drew his countrymen after him to face up to the logic of their situation and prepare for war.

After that peroration, for liberty or death, and after its general acceptance, not only by those present in St. John's Church but by a plurality of all Americans determined to resist the imposition of the royal prerogative through force, the Declaration of Independence

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was anti-climactic. Yet even in that development, Henry played a major role. For the document which young Jefferson composed in Philadelphia, effacing himself and speaking for representatives of the Commonwealths there assembled, had behind it the instructions of the various colonial legislatures: particularly the instructions of the Virginia Assembly drawn in the late spring of 1776 by or under the influence of their chief of men. I quote here the precise language of that instrument in the draft of Patrick Henry:

As the humble petitions of the Continental Congress have been rejected and treated with contempt; as the parliament of G.B. so far from showing any disposition to redress our grievances, have lately passed an act approving of the ravages that have been committed upon our coasts, and obliging the unhappy men who shall be made captives to bear arms against their families, kindred, friends, and country; and after being plundered themselves, to become accomplices in plundering their brethren, a compulsion not practiced among prisoners of war except among pirates, the outlaws and enemies of human society. As they are not only making every preparation to crush us, which the internal strength of the nation and its alliances with foreign powers afford them, but are using every art to draw the savage Indians upon our frontiers, and are even encouraging insurrection among our slaves, many of whom are now actually in arms against us. And as the King of G.B. by a long series of oppressive acts has proved himself the tyrant instead of the protector of his people. We, the representatives of the Colony of Virginia do declare, that we hold ourselves absolved of our allegiance to the Crown of G.B. and obliged by the eternal laws of self-preservation to pursue such measures as may conduce to the good and happiness of the united colonies; and as a full declaration of Independency appears to us to be the only honourable means under Heaven of obtaining that happiness, and of restoring us again to a tranquil and prosperous situation;

Resolved, That our delegates in Congress, be enjoined in the strongest and most positive manner to exert their ability in procuring an immediate, clear and full Declaration of Independency.¹

The changes made by Edmund Pendleton and certain other delegates in the resolution conveyed to Philadelphia are not significant. And in that summer, no Virginia Whig would presume to contradict such instructions or rewrite them to mean something contrary to what their author intended.

Thus Patrick Henry *made* a revolution, though he did not write about one. And we would be generally at a loss to know what he intended through that making, except for the preserved recollections of his contemporaries and a very few documents: that is, had he not been drawn in debates over the federal Constitution (1788) to

reconsider those designs and purposes in public, with a stenographer at hand. In my opinion, there are few instruments more valuable to the student of our national beginnings than Volume III of Jonathan Elliot's *The Debates in the Several State Conventions on the Adoption of the Federal Constitution*.² It is, of course, true that Henry stood in opposition to adoption in Virginia. But it is noteworthy that no Federalist opponent of his masterful performance disputes his interpretation of the history from which he argues. Nor do they deny him when he advances the prospect of certain innovations in the American system as hostile to and violations of the Revolutionary model. It is rather their point that the Constitution will be a means for preserving and perfecting a generally agreed upon heritage.

The Henry who was a better prophet than his antagonists is once again the subject of another essay. It is sufficient for our present purposes that he said a great deal about the Revolution in those heated Richmond debates, about its significance for the men who brought it to completion—many of whom were present; that they found his remarks to be unexceptionable; and that, together with the aforementioned recollections and occasional documents, they make available the original American precedent—a precedent from which we presently diverge at our great peril.

What counts most about Henry's teaching in those Richmond orations is that it discourages in our generation all attempts to subsume the American struggle for independence under the general category of "revolutions of dogma and abstract theory"—revolutions such as have convulsed the Old World periodically since the decade of our own achievement of political identity. According to his son-in-law, the eloquent Judge Spencer Roane, the mature Henry "detested the projects of theorists and bookworms. His prejudices against statesmen of this character were very strong."³ And these wise prejudices did suffer from considerable provocation during his thirty-five year experience of every sort of American politician, but more, at the end of his life, from

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over the seas. Patrick Henry did not think well of the rebellion they made in France. He wrote a friend of our original ally that "her conduct has made it the interest of the great family of mankind to wish the downfall of her present government." In fact, he thought so ill of it that to oppose the spread of such influence on these shores he made common cause with his old enemies, the Federalists. If "everything that ought to be dear to man is covertly but successfully assailed . . . under the patronage of French manners and principles [and] under the name of philosophy," what could an Old Whig constitutionalist do but disapprove?⁴

In recommending corrections in the Federal Constitution of 1787, Governor Henry, speaking for the Virginia legislature, offered counsel "not founded in speculative theory but deduced from principles which have been established by the melancholy example of other nations, in different ages."⁵ And even in the most "radical" performance of his career he declared, "I have but one lamp by which my feet are guided; and that is the lamp of experience."⁶ In mixing the argument from consequences with the appeal *ad verecundum* (from tradition), Henry is far removed from the school of strict reason, from the world of the *philosophe*, but at the same time, at the very heart of the original American political tradition.

Stated briefly, this commitment to historic rights, inherited rights available at law and passed on in a historic continuum (organic compact), as property is passed from father to child, identifies Henry as an American subspecies of the English "country Whig". True enough, he did employ the conventional language of contract theory and make an occasional bow toward "natural rights". But that the fundamental and indefeasible rights of man could be even partially achieved outside the complex negotiation that is the common fortune of a given people located in a given place over a number of generations did not occur to him as a serious possibility. Nor did he by "equal liberty" mean anything like what natural rights theory assumes: anything more elaborate than the necessity for self-defense and self-preservation. For Henry's "liber-

ty” allowed him to propose on the eve of his fourth term as governor a pluralistic religious establishment for the support through law and taxation of Virginia’s principal denominations.⁷

And, when the high-toned Edmund Randolph during the ratification debates spoke of the “short work” made of the bushwhacker Josiah Philips by his upcountry neighbors as proof that a federal power was needed to secure equal rights, Henry replied scornfully that his friends understood their business better than any uniformitarian jurisprudence and “beautiful legal ceremony” could guarantee (Elliot, p. 140). As we know, “Fair liberty” was all his cry. And of government he declared that the “security of liberty should be its direct and only end” (Elliot, p. 45). By these injunctions he signified nothing more complicated than a desire to see his countrymen free to be themselves and to generate their own culture, out of the dialectic of their own experience according to what he called their “genius”. And by that last word—“genius”—he specified an assumption, or set of assumptions, around which we may reconstruct his view of what the Revolution was all about.

Each nation has its own genius.⁸ And history is the touchstone of any systematic effort toward its identification. In the Richmond debates Henry spoke from little else but history—particularly from the British and the English colonial record of which our new republic was to be, in his understanding, a consummation. Consider the following language and ask yourself, “Can it be otherwise construed?”

When the American spirit was in its youth, the language of America was different: liberty, sir, was then the primary object. We are descended from a people whose government was founded on liberty: our glorious forefathers of Great Britain made liberty the foundation of every thing. That country is become a great, mighty, and splendid nation: not because their government is strong and energetic, but, sir, because liberty is its direct end and foundation. We drew the spirit of liberty from our British ancestors: by that spirit we have triumphed over every difficulty. (Elliot, pp. 53-54).

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And again:

We entertained, from our earliest infancy, the most sincere regard and reverence for the mother country. Our partiality extended to a predilection for her customs, habits, manners, and laws. (Elliot, p. 162)

From that noble source have we derived our liberty: that spirit of patriotic attachment to one's country, that zeal for liberty, and that enmity to tyranny, which signalized the then champions of liberty we inherit from our British ancestors. And I am free to own that, if you cannot love a republican government, you may love the British monarchy; for, although the king is not sufficiently responsible, the responsibility of his agents, and the efficient checks interposed by the British Constitution, render it less dangerous than other monarchies, or oppressive tyrannical aristocracies. (Elliot, pp. 165-166).

Against the new and insufficiently prescriptive Constitution he advanced over and over again, with the English precedent in hand. "How are the state rights, individual rights, and national rights, secured? Not as in England; for the authority quoted from Blackstone would, if stated right prove, in a thousand instances, that if the king of England attempted to take away the rights of individuals, the law would stand against him. The acts of Parliament would stand in his way. The bill and declaration of rights would be against him. The common law is fortified by the bill of rights." (Elliot, p. 513) Finally, he summarized these objections in one sentence. Of the Philadelphia instrument, he maintained, "There is not an English feature in it." (Elliot, p. 170)

We are reminded of the language employed by Edmund Burke in his "Speech on Conciliation with America" (1775) to describe his kinsmen over the sea: "The temper and character which prevail in our colonies are, I am afraid, unalterable by any human art. We cannot, I fear, falsify the Pedigree of this fierce people, and persuade them that they are not sprung from a nation in whose veins the blood of freedom circulates. The language in which they would hear you tell them this tale would detect the disposition; your speech would betray you."⁹ The affinity in perspective on a common inheritance linking these two statesmen brings me to the crux of my argument concerning Henry on revolution.

Seen in this light, what happened in the thirteen North American colonies between 1774 and 1782 was not so much a revolution as a counterrevolution: a struggle by the colonials to preserve a regime both extant and well affirmed from threats to its felicity issuing from other components of the total British polity. Like the architects of 1787, who would have (according to an apparent majority of Americans) established a government not checked by the necessary and specific restrictions on its coercive powers, it was George III, his ministers, and their supporters who were guilty of a "radical" usurpation against the rule of interdependence for the common good (Elliot, p. 44). Once the prospect of military force in implementing these doctrines became an ingredient in this confrontation, war was bound to come. For once the sword is drawn, nothing can answer but the sword, or so says honor—hence the language in Virginia's 1776 instructions to the Continental Congress, the language of Henry quoted above; and hence the Declaration of Independence itself which, as we are so often urged to forget, should be read in the light of such representative Whig expressions of opinion. Men, in their composite character as collectivities, have inalienable rights to observe the "eternal law" of self-preservation, to protect life, property, and hope of a future. One people has the right to expect this of government as much as another—in that sense, are equal to them. And certainly, one group of Englishmen expects as much as any other Englishmen.

But compulsion aside, how precisely are the English authorities to be taken as usurpers against law, usage, and custom? And how shall rebellion take on the sanction of preservation? For, in Henry's view, as in the Declaration, "light and transient causes" will not serve; revolt is not an end in itself.¹⁰ First of all, as part of a sequence of developments in the evolution of the English Constitution, beginning with the 1628 Petition of Right and, after royal and parliamentary excesses, brought to a partial settlement in the 1689 Bill of Rights (Elliot, pp. 316-337). Yet, as Americans discovered, a further step toward community under the sovereignty of law (charters, statutes, and unwritten prescription—all determining

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stations and roles) was required. As a young lawyer, Henry had foreseen this exigency. For in the Parson's Cause he had argued, "A king by annulling or disallowing laws of this salutary nature, from being the father of his people degenerates into a tyrant and forfeits all right to his subject's obedience."¹¹

American colonials had developed their government within the legal context of the established English political forms, minus a titled nobility and a full religious hierarchy. Remove also an offending king and only the prescriptive law remains. But (since another executive will be provided, and judges for their support) with additional writing down, add specificity to forestall those old enemies, inference and construction. And ban the more obvious infringements of fiat, called under the crown "expansions of the prerogative." However, if executive authority, representatives, and people are, in all their roles and stations, determined by a clear and limited set of agreements and laws; and if they come to love that bond, their genius may then flourish and their virtue (*qua* public spirit, reinforced by a sense of joint investment) be expected to grow. To how these improvements should be drawn history was once again the key, experience followed by meditation. In it good citizens might find "the voice of tradition" (Elliot, p. 56). Henry was always proud of his part in keeping the common law in a free Virginia, proud of the heritage it made manifest, and also proud of his part in abstracting from the political system which antedated that freedom all prospect of future obstructions to its fruitful operation (Elliot, p. 446). His constant aim was to release what he, as a very social man, knew better than any of his contemporaries—that "genius" of this shore, this commonwealth, of which I spoke before, and to which I must now return in summarizing Henry's social theory.

Genius, as used in the eighteenth century, is an imprecise term. It can mean several things, but in a political context will usually signify a quality rooted in nature and place. As in the Latin *genus loci*, or resident spirit of a stream or wood, it could not be known save through its activities. And the genius of a people is

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likewise signified. A spare structure or supporting institutional framework could encourage its revelation—or a large *a priori* political machinery prevent that unfolding. Henry, even in 1775, wanted union and had once declared, in the context of war, that where our foreign enemies were concerned he did not think of himself as a Virginian, but as American.¹² And he seriously wished to see the Articles of Confederation strengthened in keeping with the genius of the entire country.

But in his view, that was an entity which touched upon only a small portion of our common life; and likewise state law in the Old Dominion. Virginia had a “government suited to the genius of her people”—a government “formed by that humble genius,” a spirit which included the genius of their ancestors. And its success proved of those who formed it that they, “perhaps by accident, did what design could not do in other parts of the world.” It is only thus that liberty, a condition, is the end of official government, for by its operation is genius released, and a culture permitted to develop from its roots, upward (Elliot, p. 161).

Henry’s antithesis of “design” and “accident” is central to his political teaching. For design is what he perceived in the Federalist model for our United States, an “energetic” plan framed to organize and dragoon its citizens toward the achievement of some externally determined end. Further, it was obvious that such design would eventuate in the divinization of the state: a condition where men live for government, not the other way around, and government either *for* ideology or to enact some monstrous private will. I will not here take you through his particular objections to Madison’s crafty composition. It suffices to say that they were all directed toward liberty and away from an extrinsic *telos*, all finally productive of what we now know as the Bill of Rights. His America did not exist to pursue certain military, economic, moral, or philosophical objectives. To borrow language from a group of his most articulate political descendants, he scorned the notion of a culture “poured in from the top,”¹³ whatever the rationale. Rather,

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his social-political vision was what Michael Oakeshott has called "nomocratic" and Eric Voegelin "compact."¹⁴

Political manners, divorced from any purpose outside of sustaining their devotees in relation to each other, would produce identity for a *posteriori* description by the wise: grown identity, as good husbandry of soil makes a tree bear fruit, but does not plumb the mystery of that tree.¹⁵ Not the glory, nor the power, nor the wealth which the Federalist (as had King George) promised could be the mainspring of the republic which Henry envisaged. Nor could it be the right to live outside the *societas* which a quasi-Roman notion of normative national law might guarantee: the anti-community of atomistic individuals who become a "herd" (a word Henry despised) by overdoing their effort to be the opposite. What was needed must come from within, from persons in relation to persons, all knowing who they are.

It should now be possible for us to understand why there has been something like a conspiracy of silence concerning the political theory of Patrick Henry, its ancient antecedents, and its obvious relevance to disruptions in American life today. Our scholars, most of them rationalists and neo-Federalists, had a vested interest in producing Henry's present reputation: that he was a simple-minded country politician turned demagogue, a Populist trimmer whose talents happened to serve his more far-sighted contemporaries when the Revolutionary crisis came. That Madison was the fellow to read, and Jefferson before him—or certain selected Boston radicals, as reprinted under the auspices of the Harvard University Press. In any case, Henry's rhetoric could be explained as a product of the shifting circumstances of his private life and developments in the regional economy of the districts where Henry's will was "omnipotent": Henry's rhetoric, but not that of his political antagonists. To the degree that this obfuscation has been successful and Henry replaced in the center of our bicentennial attentions by more speculative politicians who in some way augur the present dispensation of things, to that extent we have

been deprived of the political paradigm which the occasion requires us to seek.

We should not feel free to forget that the Revolution was made against power, uninformed of the conditions which it administered and untouched by the consequences of that remote administration, particularly in view of what we have learned of power since. Nor should we ignore the evidence that there was a republicanism abroad in the land which owed more to Lord Coke and Roman history than to Mr. Locke. Henry's politics as here reconstructed will, I hope, help prevent such mistakes.

But to practice a more complete piety and to make the precedent here considered into a living force, more than theoretical study is required. The best way to know from the inside the kind of America Patrick Henry hoped to leave us intact is to plunge submissively into state and county histories, reminiscences, and letters—into the bygone world of country and village and town as managed by ordinary citizens according to the *mos majorum* and their own particular lights. From such studies and from the evidence of American literature, as opposed to the more conventional searchings after nuance and refinement in the record of political thought, we can approach that interior knowledge: for there is theory in the private history of free Americans living *privately* in communities, within the ambit of family and friends: living under the eye of God out of the memory of their kind. Theory is evident for such students as are prepared to begin in the proper places and to seek out the proper contemporary guides in framing language for the translation of actions into thought—theory usually better than the disembodied kind.

Patrick Henry, as available in Elliot and in his other scattered remains, when framed by the early history of Virginia and the upper South, is such a guide. For, as we all recognize, his wisdom was longest preserved in its place of origin and from the perspective of our day seems almost inseparable from two hundred years of Southern testimony in "opposition". Yet it is not, nor was it ever, meant for local consumption alone—not just for the electors of

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Hanover, Louisa, Goochland, Prince Edward, and the other counties west of Richmond or on the "south-side" of the James. Assuming (as does my presence here) that Henry's America of the Revolution has a lesson for us all, Andrew Lytle, in his recently published *A Wake for the Living*, has recovered its image in a condensed and dramatic re-creation. Most of what is argued here from Henry is implicit in Lytle's family chronicle, and especially the separation of the public and private spheres, the horror of a totally politicized world. Toward the book's end, Lytle recalls the incident of a young colonel who asked of Robert E. Lee what the General could say to history in defense of his command decisions. Out of a world view identical with Henry's, Lee replied, "I will take the responsibility."¹⁶

The authority for such decisions comes only from the virtue of unequal men unequally accountable to God, respectful of the prescription, guided by manners, and free through that combination to exercise responsible choice: only from the leader of a people whose genius remains intact because that "jewel . . . the public liberty" has been guarded with "jealous attention" (Elliot, p. 45). If we consider the example of Patrick Henry with such distinctions in mind, we will have some idea of how far from our beginnings we have come—and some idea of the hard way back.

NOTES

1. Norine Dickson Campbell, *Patrick Henry: Patriot and Statesman* (New York: Devin-Adair, 1969), p. 206.
2. Jonathan Elliot, editor, *The Debates in the Several State Conventions on the Adoption of the Federal Constitution as Recommended by the General Convention at Philadelphia in 1787* (New York: Burt Franklin, n.d.), 5 volumes. A reprint of the 1888 edition, cited hereafter within the text.
3. Robert Douthat Meade, *Patrick Henry: Practical Revolutionary* (New York: J.B. Lippincott, 1969), p. 265.
4. Campbell, *op. cit.*, p. 407.
5. Meade, *op. cit.*, p. 377.
6. Campbell, *op. cit.*, p. 129.
7. Meade, *op. cit.*, p. 268.
8. Henry uses the word throughout the debates with unmistakable iteration.
9. Quoted in Campbell, *op. cit.*, p. 133.

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10. Meade, *op. cit.*, p. 70. Henry recommended against attempting to draw Canada into the Revolution because he believed that "men will never revolt against their ancient rulers while they enjoy peace and plenty."

11. Robert Douthat Meade, *Patrick Henry: Patriot in the Making* (New York: J.B. Lippincott, 1957), p. 133.

12. Richard R. Beeman, *Patrick Henry: A Biography* (New York: McGraw Hill, 1974), p. 60.

13. From p. xvi of the "Introduction" to *I'll Take My Stand: The South and the Agrarian Tradition* (New York: Harper & Brothers, 1930) by Twelve Southerners. John Crowe Ransom, speaking for the group, wrote this passage.

14. Michael Oakeshott, *On Human Conduct* (Oxford: The Clarendon Press, 1975), pp. 201-203; Eric Voegelin, *The New Science of Politics* (Chicago: University of Chicago Press, 1952), pp. 86-91.

15. See Alexander Bickel's *The Morality of Consent* (New Haven: Yale University Press, 1975), where the idea of procedure as the identifying bond of the Republic is instructively developed.

16. Andrew Lytle, *A Wake for the Living* (New York: Crown Publishers, 1975), p. 269.

NO MASTER BUT THE LAW: THE LEGACY OF WILLIAM HENRY DRAYTON

There is a great disadvantage which comes from beginning a study of our political inheritance in the American Revolution with the contemporary view of natural rights or with an uncircumstanced and ahistorical reading of the Declaration of Independence—the kind of reading which is a major source of modern natural rights theory. To understand what the Declaration signified to those who made it, to those who ratified its final version, and to those outside of Philadelphia who accepted the costs it was bound to bring to the ordinary, non-theoretical American, we should look away from the noise that Boston made and beyond the standard group of “advanced thinkers” who have long dominated our view of the times. Instead, we should focus upon the slow and painful stages by which thirteen separate political communities backed their way into their own discrete commitments to civil war—particularly those communities which moved the whole difficult way to separation from the mother country without any “love of innovation” or “lust of independence”: without violating the familiar boundaries of British constitutional theory or the historic and painfully accumulated dicta of the Old Whig teaching on the “inherited” political rights of Englishmen.¹ The most old-fashioned of these “separable” revolutions is the one that occurred in South Carolina: the colony whose citizens claimed only those privileges they could “inherit from the best of titles: prescription, and usage from time immemorial.”² In correcting the conventional

anachronistic view of how our nation came to be, we will do well to begin with these Americans and then search for their counterparts in the remainder of the country.

But though the version of the American Revolution played out in South Carolina may be treated as a thing in itself, we do not mean to say that this particular "rebellion" included no reaction to rumors and reports of related secessions occurring in Pennsylvania, New York, and New England. The Committees of Correspondence did their job. What befell the inhabitants of the City on the Hill signified to the mechanics and merchants of Charleston and to the planters of Goose Creek, though not necessarily in the same way. For one thing, the thoughtful citizens of Carolina did not always approve of what was done by their compatriots to the north. At other times, they expected more from the Yankees than they were ready to perform. And there were also occasional differences with their Southern neighbors, especially with Georgia. But what really distinguished the Carolinians from many of their fellow ex-colonials was their rationale for withdrawal from the larger British commonwealth: their preference for the moderate analogy of 1688 as opposed to the Puritan prototype of 1642. The examples of lawful resistance to princely power run throughout British history. The fathers of the Palmetto State required nothing more to justify their decisions. A touchstone for the exposition of South Carolina's theory of legal resignation from the "family" of George III is the apologia for their conduct by their composite voice and most articulate spokesman for independence. William Henry Drayton was the first important Carolinian to call openly for a permanent break. No champion of the Revolution in his community wrote so well or so often as did he. I propose to treat his compositions as a way into the mind of that colony as it moved toward thinking of itself as an independent republic. And to begin that work I will attempt to frame these writings in the full context of Drayton's career. For he spoke always as a man of his time and place, an incorporated person, limited by who, by what and where he was. Rarely did he argue from definition. He spoke not as a philosopher but as a *rhetor*.

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Which is precisely why he is so important to our attempt at recovering the total shape of our national beginnings. And in determining the larger political implications of such an overview.

William Henry Drayton (Sept. 1742 - Sept. 3, 1779) came by natural stages to be both the center and summary figure of the South Carolina revolution.³ In the exciting days which led to independence he was one of the most popular men in the colony. And he came to hold almost every post of honor within the gift of his countrymen. Yet Drayton had been born to privilege and high estate. He was the son of John Drayton, one of the great planters of the low country, and the grandson of Thomas Drayton, who had come from Barbados with Sir John Yeamans in the days of early settlement. William Henry's uncle was Lt. Governor William Bull, old Carolina's leading citizen. As a youth he received the best education available in his day, both at Westminster School and at Balliol College, Oxford (1761 -1763). After ten years in England, he returned home to marry and to assume his place. He prospered and built a great house. Yet he continued in his passion for historical studies and the law, and while still very young had earned the respect of almost every cultured man of his acquaintance.

Yet despite his advantages and his subsequent record of political acclaim, Drayton was not always the favorite of his fellow Carolinians. During the Stamp Act crisis, he refused to join the association of persons pledged not to trade with the mother country. And he attacked this strategy of non-violent commercial resistance in the Charleston papers. Christopher Gadsden and other "patriots" answered the youthful loyalist.⁴ And there were other unpleasant responses. William Henry Drayton at this stage in his life was following the leadership of the older members of his family. But with these disturbances (and because the situation troubled him), he retired from the scene of conflict and, from 1770 to 1772, took another trip to England. There he moved in the highest circles, was presented at court, and observed the changing attitude toward the North American colonies in the leaders of British society. He was exposed to what the "friends of America"

were saying, both in Parliament and in print, and also to the plans of the King's government to tighten the reins on his overseas possessions. But whatever Drayton heard and saw, it taught him that he was not an Englishman but a Carolinian—a colonial, who was often out of place or ill-received in the England of those years. And, despite the influence of father and uncle and the family tradition of service to the Crown, the experience changed his mind about the future of South Carolina. When he returned to Charleston, Drayton was ready to play a role on the side of his neighbors, should George III or his servants threaten their liberties in any serious way. The challenge came all too soon.

On the advice of Lt. Governor Bull, William Henry was given, in 1772, an appointment to the Council of the province, where he joined his father and his Uncle Thomas. And in January of 1774, he was made an Assistant Judge. In both offices he was rapidly thrown into conflict with sycophants who regarded the colonies as nothing more than British "possessions", in that term's narrowest sense: encountered the attitudes sounded so often by the "King's friends" in Parliament during these times of dispute. Shortly thereafter he began to take a part in the formation of a second or "unofficial" government: in the meetings which dispatched delegates to a new Continental Congress, authorized a General Committee, and called for the convening of a new Provincial Congress to replace the old (and paralyzed) Commons House of Assembly. At this time Drayton contributed his first important pamphlet to the development of an American position on colonial rights *under* the British Constitution, his memorable *A Letter from Freeman of South-Carolina*, patterned after the 1628 Petition of Right brought up against Charles I by the great common lawyers.⁵ And from the King's Bench, before the grand juries of Camden and Cheraws, he delivered the first of his famous "charges" or readings of the law for the general edification of his countrymen in the nature and source of their rights.⁶ Soon thereafter he was removed from both the King's Bench and the Governor's Council. But he had found the persona which he was to employ throughout the remainder of his

brief career. For a remarkably homogenous, traditional, but unselfconscious society, his role was to be that of Law Speaker.⁷ And through that role he reinforced its unity in and by a notion of the prescriptive English Constitution: an authority long recognized in South Carolina, operating on these Englishmen living overseas as their true "sovereign". As he told the gentlemen jurors of Camden, he "knew no master but the law" and was "a servant not to the King, but to the Constitution."⁸ Even though it brought him through and beyond revolution, Drayton never really departed from this posture. With sanction from the antecedent colonial arrangement, from a generally recognized and rarely questioned concept of Carolina's political identity (but not from generalization about the nature of man), a new law might be made. Though not really new—only restored. By persisting in this vein, William Henry Drayton developed an authority over Carolina's political thinking unmatched by the Pinkneys, by John Rutledge, Christopher Gadsden, Henry Laurens, or any of the other great men who led her people in this the period of their first major ordeal.

The Provincial Congress elected in January, 1775, appointed a special committee to govern when it was not in session. And also a Council of Safety, which made plans for social control and for armed resistance to any British attempt to rule by force. Drayton was a figure in both. He was called upon to "greet" the newly appointed royal governor, Lord William Campbell: to instruct him, politely, regarding the limitations he would face. And during the late summer, Drayton was dispatched as a commissioner to tour the back country and explain there, in legal terms, the deterioration of the province's relations with the imperial power across the Atlantic. Later, he treated with the Cherokee. And finally, in November of 1775, he was elected President of the Provincial Congress, where he presided over the drafting of a new constitution to replace South Carolina's royal charter: the first instrument for independent government written in North America—made to preserve "the common and unalienable rights peculiar to Englishmen."⁹ In this office Drayton authorized the commencement of hostilities with

British warships; directed preparations for a naval defense of the Carolina coast; and, on February 6, 1776, broke the strained silence and became the first man in the province to suggest that it should declare itself a free commonwealth.¹⁰

The final confirmation of Drayton's special status as a living embodiment of a South Carolina which defined itself in terms of a specific legal inheritance came when, on March 26 of 1776, he was elected by the General Assembly created under the new constitution to be Chief Justice of the state. He held that post until his untimely death. From it he delivered two additional grand jury charges, issued in April and October of the year of his appointment. These, along with his earlier charge as a judge under the royal government and his 1774 petition to the Continental Congress, constitute the major portion of his literary achievement. And I will turn to these works shortly. Yet beyond these memorable compositions, there were still further labors in the three years remaining. William Henry Drayton went on missions to North Carolina and Georgia, acting for John Rutledge, the first president under the new constitution.¹¹ He struggled to develop a navy for South Carolina. And in March of 1778, he was elected to serve as South Carolina's delegate to the Continental Congress. In that assembly he continued to bespeak the political philosophy he had developed among his own people, delighted to recommend it on a larger, "national" stage. And also participated in the debates concerning the proposed Articles of Confederation. He brought his uneasiness regarding this instrument and the problems involved in forming a federal union of the thirteen infant republics back to Charleston and gave there, to the legislature, a thoughtful address prophetic of future conflicts with their compatriots in the North. South Carolina ratified the Articles. Yet it also returned Drayton to the Congress, where he was recognized as the spokesman of his state. There, in the midst of a great variety of business, Drayton died of a sudden attack of typhus. For the close student of American historiography, it is most noteworthy that, since the day of his death, there has been no serious study of this Southern

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statesman's thought. And no edition of his works. To that unjustifiable omission we now may properly address ourselves.

The fulcrum of Drayton's political teaching was, as I said above, his view of the justification for the removal of the Stuart prince, James II, from England's throne. Which led directly to his general theory of government. Drayton came finally, after the Prohibitory Act and related speeches, declarations, and pieces of British legislation which poured out of London in the fall of 1775, to believe that George III had to all intents "abdicated" his place as King over Englishmen in North America. King George was guilty of a failure in "protection". And since both Houses of Parliament had made a part of the act of removing Americans from the securities of British citizenship, that prince's crimes were also theirs. To cast out the colonials, with the total British government playing a role in their expulsion, was to place them in the status of an enemy occupying British soil—an enemy to be conquered or driven out. But it was also to set them free. The Glorious Revolution had preserved the monarchy by replacing the king. The rest of the government was not implicated in James II's violations of law. But Parliament's role in 1774-1775, and the difference between what King George was doing in North America and what he could do in England, made simple replacement impossible. The Constitution had been broken irrevocably. Americans could replace neither prince nor lords nor members of the House of Commons, as the English had simply replaced James II. On the principle of 1688, they would have to make another shift for restoring their society to the protection it had lost.¹² South Carolina's charter (1669), as revised in 1719 (the end of proprietary authority), in conjunction with the liberties of Englishmen transplanted to these shores through those antecedent governments, would point the way.

The other source of Drayton's teaching, itself reflective of earlier British thought on lawful resistance, comes closer to being philosophical. It involves what appears to be an argument from nature, though to dignify it so is perhaps excessive. With the deci-

sion to form an independent republic in South Carolina, Drayton added to his prescriptive appeal the claims of necessity—self-preservation. After defining them as outlaws (in the 1775 “Proclamation for Suppressing Rebellion and Sedition”), England had gone beyond asserting that Parliament could bind the colonials “in all cases whatsoever” and had moved in the direction of arming and deploying Negro slaves and Indians to punish their recalcitrance.¹³ It had suspended charters and forbidden the regular operation of duly constituted colonial governments. An army of occupation had been dispatched, trade interrupted, and property seized. Moreover, Americans not willing to submit would soon face the prospect of prerogative courts and of transportation to England for trial. In a word, the British were in the process of waging a war of conquest against their brethren in North America. To resist would be nothing more than self-defense. By definition, all men carry in their nature a right to do at least this much. The best analogy is to the reaction of Southern moderates when Mr. Lincoln called for troops to subdue the seceding states. There was no choice but “compliance with the first law of nature.”¹⁴

Drayton began to develop this position in his charge to the jurymen of Camden and Cheraws and in his *A Letter from Freeman of South-Carolina, to the Deputies of North America, Assembled in the High Court of Congress at Philadelphia*.¹⁵ Like his later experiments with this species of public discourse, the 1774 charge was printed at public expense. Form and auspices together say thus it is doctrine. The rhetoric here is almost epideictic, a form of argument from authority. And for the Old Whig almost what the king’s speech from the throne was for a Tory. Drayton speaks as if no objection to his argument were possible. This quality of his style says as much about the character of the revolution in South Carolina as do the particulars of his position and, in turn, dictates his conclusions almost as surely as it guarantees for them a favorable reception with the audience for which they were designed. As a healing instrument, it strengthens (or restores) the interdependence of a free people with their government or their affinity for a collective past,

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sometimes to be called upon for correction of an impious present. Drayton's is, in a word, the ultimate anti-radical appeal, in persona merging what and how he spoke.¹⁶ Let us examine this rhetoric in Drayton's first published charge of November 5 and 15, 1774.

The design of Drayton's first speech from within the mantle of the law follows the logic of its occasion. He moves from a preamble, presupposing present difficulties (and a contrary view of the office, one professed by mere placemen) to declare his duty as judge, and then goes forward to a treatment of the jurors' obligations to preserve their part of the legal system and make the law alive. The trouble with some judges, says Drayton, is that "they style themselves the King's servants." And it is against this error that Drayton insists that his "master" (and that of his audience) is the law. The law "orders" that he charge the jurors to give it force. To do otherwise would be "treasonable contempt". And "particularly so at this crisis, when America is in one general and generous commotion." To support this view of law, Drayton talks first of its origin and then of what it requires. "This colony was settled by English subjects; by a people from England herself; a people who brought over with them, who planted in this colony, and who transmitted to posterity the invaluable rights of Englishmen—rights which no time, no contract, no climate can diminish." Here he introduces his own formulation of the familiar Old Whig constitutional theory: a formulation for English colonials. He traces the same genealogy (though perhaps with greater force) in *A Letter from Freeman of South-Carolina*. There he writes that "English subjects emigrating from England to colonize America, carry with them inherently in their persons, a title, which is unalienable, and which no time or climate can invalidate, to enjoy the benefits of the common law in America And such were the *Lares* our Forefathers religiously embarked with themselves, to protect them and their posterity, in the wilds of America."¹⁷ Thus the law is not merely sovereign. Rather, it is a "household god", in the Roman sense. It is the seat and source of group identity binding together the generations of a common blood. And it defines the ven-

ture of colonization as a relocation of ancient familial things, as when Aeneas bore his father from the burning walls.

It is in this spirit of inheritance that Drayton enjoins the gathered keepers of the traditional authority that it is their "duty to exercise those powers with propriety; it is mine concisely to point out to you the line of your conduct—a conduct which the venerable Constitution of your country intends." For the self-defining inheritance of law/identity, the incarnate spirit or "presiding genius of the English race", is nourished only through its application to present circumstances—through care for the jury system and enforcement of the Negro Act (legislation for social control). And it ought to be preserved "not only for its inestimable value, but from a reverence to our ancestors from whom we received it, and from a love of our children, to whom we are bound by every consideration to deliver down this legacy, the most valuable that ever was or can be delivered to posterity."¹⁸ Drayton closes by reminding the jurors of their oath to uphold the Constitution. Their response (completing our view of the Judge's performance) was to provide that the charge "be printed and made public" as meeting with their approval.

Drayton's somewhat earlier *Letter from Freeman of South-Carolina* (appearing in August) says nothing at variance with his charge to the two grand juries. But it says more, and for a larger audience. What he offers is a position, a rationale, for the entire Continental Congress to follow in defending the American view of the British Constitution. The form of this public letter (remember Cicero) recalls the "speech without doors" which came to the Parliament of 1628 as it was first convened. Drayton, speaking not only as private man but also as council member and judge, is quick to disclaim any intention of joining the strictly popular party and to correct any idea that he is "zealous for the prerogative". He deplores both Tory and radical. "In private and public stations have I endeavoured at one time, to oppose the Exuberance of Popular Liberty; and at another, the stretches of the Government Party . . ."¹⁹ But if neither people nor throne is to be sovereign, only law can rule.

Which is precisely the theme we would expect. Drayton's motif in this full and formal essay is from Sir Edward Coke: "Magna Charta is such a fellow, that he will have no Sovereign."²⁰ Where the Constitution is concerned, Drayton recommends firmness. Yet his ostensible reason for speaking up is to prevent the dispute with England from becoming more serious than it already is. Though, as he acknowledges in his choice of forms, he recognizes that possibility. In 1628, Charles I, by receiving the Petition of Right, had resolved some of his difficulties with the leadership of the House of Commons, the men of law. A few years later he was less successful in confronting another remonstrance. And as a result he shortly thereafter faced other, and more deadly, adversaries and found himself in a civil war.

From this baleful and self-justifying exordium (pp. 2 - 8), Drayton moves directly (pp. 8 - 16) to offer his own helpful suggestion for reconciliation with the Crown: an American petition for the reformation of the structure of government, making the Continental Congress a permanent part of the imperial structure. Each colony would retain control over its internal affairs. But the responsibility for levying and collecting a tax to support the Crown's establishment in North America would belong to the national assembly. Drayton will not separate the power to tax from other legislative capacities. This distinction, often made by his contemporaries, seemed to him a sophistry: and of no use in negating American fears of a despotism—one of the announced reasons for the preparation of this public letter. Drayton, of course, insists that Parliament repeal the Coercive Acts of 1774. These five bills closed the port of Boston, altered the charter of Massachusetts (giving the King power to appoint the Governor's Council), forbade town meetings, provided for the quartering of British troops on the American population, precluded the trial of those soldiers or other official personages within the royal establishment by colonial juries, and established a new government for recently-conquered Quebec—a government by royal fiat, with no relation to English law. In this set of enactments, many Americans (and many English

Whigs) saw a sinister design. Particularly when they were perceived as reinforcing already-established abuses—judges appointed to serve at the pleasure of the Crown, Admiralty Courts, the issuance of General (or open) Warrants, and the broad claims of authority stated in the Declaratory Act. What Drayton proposes is to the opposite effect, though he leaves George III as monarch in the thirteen troubled colonies, leaves untouched many of his appointive powers, and does not challenge the authority of Parliament in directing the foreign policy of the empire or a legal role for the House of Lords as a court of final appeals.

Throughout this paper Drayton shows himself to be peculiarly interested in the future composition of the American judiciary.²¹ Even in his draft petition for presentation to the Congress, reform of the courts seems to be his obsessive concern. Yet, coming from a “Freeman” who is also a judge, from a political thinker to whom the continuity and application of the English law is the foundation of the American identity, none of this should surprise.²² Drayton includes quoted matter drawn directly from his model for this petition and from cognate instruments, such as the Bill of Rights. To surround his innovative proposals with the charters of British liberty is to mute their originality and to reinforce the Carolinian’s censure of the courts sanctioned by the prevailing colonial system—courts (or lack of courts) which deprive the Englishmen in North America of their “natural rights”, i.e., rights inherited through kinship and descent.²³ At times he appears to be tangled in questions of Mandamus, Courts of Ordinary and Chancery, judicial review, prerogative, and the development of an American aristocracy (to serve in the remodelled Councils of State, in his new commonwealth system). Yet he always returns to the bonds of history and nature, to the authority of blood. The next section of the essay (pp. 16 - 30), a more inclusive justification for the contents of the preceding petition, comes down to that, a denial that “the Crown can legally acquire a power over subjects of English blood, destructive of those rights which are *peculiar* to the blood. Rights evidenced by Magna Charta, and defended by the fun-

damental law of England!—Rights, evidence and laws which the Crown cannot overthrow, nor the Parliament change to the prejudice of the people interested in their preservation!”²⁴ In this passage we could not be further away from the contemporary understanding of “natural rights”. The only question is how typical Drayton was of his place and time.

The remainder of Drayton’s public letter spins itself out (pp. 30 - 46) in some additional close comment on the authorities (Hooker, Blackstone, Bracton, etc.) and some fine pleading on particular cases and decisions. The turn comes after his discussion (in expanding on the errors of the King’s government) of the 1672 Act to give representation to the County Palatine of Durham and a following gloss on the arguments against the quartering of troops made in the Petition of Right: after Drayton has given his statement of grievance a lofty and resonant frame. That he follows with more law and legal philosophy in order to “view the foundations from which Americans build their claim of Rights and Liberties” indicates that his aim is to swallow up the reader in the ambience of prescriptive reasoning and thus induce him to think of the issues separating colonies from mother country *in only those terms*.²⁵ Always his theme is of inheritance—its advantage and obligation—or of baneful innovation which works for the “alienation” of inherited rights. Englishmen cannot be taxed unless represented in the legislature which levies upon them because their fathers were not. Relocation will not serve as an excuse for treating them as Englishmen apart. For they belong to an undying composite whole, an immortal family made up of mortal men which, like a corporation under the statutes of *mortmain*, cannot lose its property though its particular members must be replaced. The anterior identity broods over every question—even Drayton’s request that hereditary upper houses be instituted as part of the particular colonial governments. Though a patriot, this petitioner is clearly a man of the “dead hand”. And if he makes for a revolution, it will be in the name of Reaction. The peroration (pp. 46-47) specifies this limitation: again a reminder of a noble patrimony, this time set off

with an allusion to Livy, Book XXVI. He recalls that the men of Rome traded confidently in property just beyond the city gates while Hannibal was encamped upon that soil. So firm was their sense of themselves, so rich the honor left to them by the "conscript fathers" of their race, that they could not doubt the outcome of their struggle with the terrible invader. Nor should the American heirs of "Runningmede" despair of their hold upon the legacy of political rights which they were about to proclaim in Philadelphia. To falter or doubt the final issue would be to lose both their future and their past, a prospect which William Henry Drayton could not entertain.

Drayton's Ciceronian epistle may have affected some of the early considerations of the Continental Congress. His proposal for an American Parliament, and some of his other suggestions, resemble closely Joseph Galloway's plan for American self-government *within* the empire. And Freeman's ideas are also close to certain features of petitions for redress sent over by the Congress to be ignored by the Crown. But all to no avail. The worsening troubles between Great Britain and her North American creations foreseen by William Henry Drayton did indeed occur. Words led to bullets, to civil war. And in the spring preceding the general Declaration of Independence, South Carolina took steps to reconstitute its government on a basis not affected by any extrinsic authority. Or rather, not influenced by anything outside itself apart from the broad sweep of British history. But in the eyes of Drayton, it is precisely that one surviving authority that explains the necessity of a new, totally independent government in South Carolina. Returning to the form so well suited to his message, he develops a defense of this fateful change while speaking on April 23 in his new role as Chief Justice of South Carolina. Once again, the results were made "doctrinal" by being printed at the public expense.²⁶

The meeting of this jury signified the restoration of the provincial regime. Drayton's aim is to explain why the separation had to come and the justification for it in the law. The argument is not complicated. One precedent was 1719, when South Carolina threw

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off the government of the proprietors. George II (who is here treated with reverence as a true "father of his people") accepted Carolina's plea that he assume direction of its affairs "and thereby indisputably admitted the legality of *that* revolution. And in so doing, by his own act, he vested in those our forefathers, and us their posterity, a clear right to effect *another* revolution" ²⁷ A stronger appeal is "to the great law of nature and of nations." As Drayton says later, "Nature cried aloud, self-preservation is the great law—we have but obeyed." ²⁸ British forces had been making war on American communities, sometimes leaving ruin in their wake, always treating the inhabitants as adversaries. It was impossible to resist without reorganizing the powers of the particular colonies: without administration, law enforcement, military preparations, etc. Part of Drayton's bill of particulars against British policy refers to this basic reason for changing the Constitution. ²⁹ But Drayton's strongest justification after the fact is once again from British history. The heart of this charge (drawn apparently from Blackstone) is an extended comparison between America in his time and England in 1688. As he writes, "we need no better authority than that illustrious precedent." ³⁰

The theoretical ground of Drayton's position is his interpretation of "the original contract between King and people." This bond is not to be thought of as dating from a precise moment. It has been negotiated over the course of centuries. And it may alter in some details. But its essential assumption is a reciprocity of "protection and subjection". When the King performs (usually through his servants) his role within the prescription, his liegemen are obliged to do the same. Both roles exist only within the Constitution. But when the King withdraws person and protection, he has, in effect, "abdicated"—as when Lord William Campbell, after attacking them, fled from the subjects left by George III in his care, taking with him the colony's Great Seal. ³¹ Interdependence does not allow for military coercion. Or violations of the fundamental, organic law, the true sovereign of both prince and people. Therefore, Drayton concludes, "the law of the land authorizes me to declare,

and it is my duty boldly to declare, that George the third, King of Great Britain has abdicated the government."³² South Carolina, like England in 1688, can, however, continue to be itself without the House of Hanover, its laws and officers drawing their authority from all that survives unchanged, all that has gone before. And one thing more—"the genius of the people", that touchstone to which so many leaders of the Revolution refer when they speak of days yet to come.³³

From these materials security may be restored in South Carolina. And perhaps also some kind of relationship with Great Britain, though not through any sort of future submission to British power. For there is too much natural rivalry between the two societies for that sort of reconciliation to occur. Drayton writes, "I think it my duty to declare in the awful seat of justice and before Almighty God, that in my opinion, the Americans can have no safety but by the Divine favor, their own virtue, and their being so prudent as *not to leave it in the power of British rulers to injure them*."³⁴ However, he now delights in the prospects of the new "free" state and says a great deal about the good fortune it may expect. But we must turn to his next address from the bench to discover more of the reasons why.

"A Charge on the Rise of the American Empire", delivered to the Charleston Grand Jury on October 15, 1776, is noteworthy first of all because it represents the state of Drayton's thought immediately after the Declaration of Independence.³⁵ Yet it is closer to the general essay and less of a merely legal document than the works just examined. Drayton does in this case finally get around to saying a few practical words concerning enforcement of the law. (His grand jury sessions helped to suppress what was left of loyalism in the state.) But the burden of this address is finally an encouragement to American morale—not a plea for a particular reading of the legal situation. Even though Drayton builds his exhortation directly upon the foundation of a presumption that the jury will recall his previous charge, and even though he rehearses all that was contended there concerning the "failure of protection",

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the final thrust of his remarks is an argument for confidence resting on the virtue of prior conduct, the moral decline of the enemy, the laws of geography, economics, and the evident favor of God.³⁶ Prudential reasons for optimism were of course added on, but only to round out the case.³⁷

The peculiar emphasis of this last public charge connects naturally with its formal nature as war propaganda and its derivative relationship to what Drayton had previously maintained—before the final break. Again, we hear of British atrocities and royal crimes. Drayton uses a good deal of narrative to answer the charge that we meant to reach for independence long before we claimed it. He writes, “It was even so late as the Latter End of last Year [before] . . . it was generally seen, that the Quarrel was likely to force America into an immediate State of Independence.”³⁸ To be confident in the struggle awaiting them, Americans would need a basic assurance of their own rectitude. And, as Drayton seemed to sense, this would not be available if they thought of themselves as the originators of a rebellion for its own sake, a conflict commenced in the name of colonial freedom as a general good: as innovators against the sources of their own identity. If the violations had come the other way, his neighbors could preserve their claims upon an unbroken prescription, even while republican innovations were forced upon them.

At this point, Drayton uses to real effect, to reinforce his reading of 1688, the analogy of the Dutch resistance to Philip of Spain at the time of William the Silent.³⁹ Philip attempted to control Dutch peculiarities. The Hollanders refused to be bound by their emperor “in all cases whatsoever”. And, while resisting the innovations of their prince, the seven provinces backed their way through a successful war of independence. They made a free state in order to remain what they had been. And despite terrible odds against them, prevailed in war against the greatest power on earth. The public virtue of the Dutch, made manifest in their announced reasons for taking up arms, sustained them. Americans, if they can generate among themselves a Roman firmness, will be the better

people for having made their revolution. Drayton perorates with another appeal to Livy—this time with the story of the Tarquins.⁴⁰ There can be no turning back. Though if some weak spirits imagine to the contrary, “I trust a Brutus will not be wanting?”

William Henry Drayton expected a great future for a free Carolina and a free America, a union of the several states in a confederation stronger than the NATO-like co-operation of the early years under the Continental Congress. His allusions to Rome in the Punic Wars were not merely adventitious. We were a people on the rise—as were Romans, once Carthage was overthrown. Providential circumstances (to say nothing of God’s direct intervention) seemed to favor us as they had England in earlier times. Indeed, we were to be the perfection of what they had only begun there in the long history of her most constitutional development. But there were still dangers along the way. And in his last important contribution to the literature of American politics, Drayton spoke to one of these, the problem of a national government addressed in the Articles of Confederation. In 1778, Drayton examined these proposals in a formal presentation to the South Carolina legislature. He was uneasy with many facets of the document. For having made a revolution against arbitrary power, he was not about to see another arbitrary power set up in its place. In concluding these observations on his political teaching, I shall look briefly at Drayton’s address of January 20, 1778.⁴¹

Drayton’s criticism of the Articles is that they are both too weak and too strong. In respect to the former, they lack a penal clause to ensure the mustering of troops. He dislikes the absence of a penal clause enforcing these legitimate demands upon the states.⁴² And he is also firm about the collection of a confederal tax. But the rest of his remarks sound another side of the doctrine. Drayton means confederation when he says confederation. And he means no more. He is (with other Southerners) among the earliest fathers of the antifederalist tradition in American politics. He writes, “It is of necessity that the sovereignty of the states should be restricted—but I would do this with a gentle hand.”⁴³ What he

means by these words he spins out in a series of objections to specific provisions of the Articles. He detects ambiguities and an unstated outreach toward a concentration of power yet to come. A major target of these remarks is the susceptibility to construction. He quotes Cesare, Marquis of Beccaria: "there is nothing more dangerous than the common axiom: The spirit of the laws is to be considered. To adopt it, is to give way to the torrent of opinions."⁴⁴

But beyond ambiguity and the perils of judicial review or legislative extrapolation, Drayton announces certain more concrete anxieties. Like his fellow conservative revolutionists and Carolina spokesmen, Rawlins Lowndes, John and Edward Rutledge, he is distrustful of the North—and especially of New England.⁴⁵ He doubts the merit of blanket provisions allowing for the interchange of citizens. He denies that tax valuations can be uniformly applied, especially if the valuations are made by a central authority. The state militia should not be regulated by Congress. Or local currency. Or even the appointment of all military officers. Furthermore, the South should retain a right of veto over all legislation. In conclusion he writes:

When I reflect that from the nature of the climate, soil and produce of the several states, a Northern and Southern interest in many particulars naturally and unavoidably arise; I cannot but be displeased with the prospect, that the most important transaction in congress, may be done contrary to the opposition of Virginia, the two Carolinas and Georgia, States possessing more than one half of the whole territory of the confederacy; and Forming, as I may say, the body of the Southern interest and sovereignty of the south, are in effect delivered up to the care of the north. Do we intend to make such a surrender. I hope not!⁴⁶

From such remarks we can discover what William Henry Drayton meant for the revolution in South Carolina to accomplish. Moreover, the proposed amendments to the Articles sent on to Philadelphia by the legislature in Charleston give us assurance that, as usual, Drayton's fellow Carolinians agreed with him, even though they ratified the Articles in order to get on with the war, to preserve among themselves the rights of Englishmen in an equality separate from their counterparts across the Atlantic.

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To the hour of his death, William Henry Drayton remained the representative man of South Carolina politics. And he appreciated the importance of that role for the future of his people. Within the familiar ambiance of allusion and authority, he had hoped to spell out his view of these questions in additional detail once equality *qua* independence was accomplished. In the spirit of Clarendon and his favorites, the Roman historians, he had begun a manuscript history of South Carolina in the American Revolution—an heroic work designed to inspire pride and emulation in the posterity of his generation. It remained for his son to complete this embodiment of the prescription in his *Memoirs of the American Revolution as Relating to the State of South Carolina*. The hero of this book is, of course, William Henry Drayton—a paragon of republican virtue, at least in the eyes of his son. And certainly, with Patrick Henry and John Dickinson, one of our strongest proofs of the possibility of an Old Whig, historical, and legalist reading of America's decision to go its own way.⁴ Or at least where some patriots and some states are concerned. And especially South Carolina.

NOTES

1. John Drayton, *Memoirs of the American Revolution, From its Commencement to the Year 1776, Inclusive; As Relating to the State of South-Carolina: And Occasionally Referring to the States of North-Carolina and Georgia*, 2 vols. (Charleston: A.E. Miller, 1821), reprinted by Arno Press in 1959, I, p. 260. The language is from the Address and Declaration of the Provincial Congress to Lord William Campbell, the incoming governor, June 20, 1775. The probable author is William Henry Drayton.

2. John Drayton, *Memoirs*, I, p. 121. He quotes Rawlins Lowndes, Drayton's closest ally in these times.

3. The only study is *William Henry Drayton and the American Revolution* (Albuquerque: University of New Mexico Press, 1962), by William M. Dabney and Marion Dargan. There is a brief biography attached as preface to John Drayton's *Memoirs*, pp. xiii-xxvii. By *Revolution* I refer to the total composite of thirteen local revolutions—one of which was in South Carolina. The standard account of South Carolina in this period is Edward McCrady's *The History of South Carolina in the Revolution, 1775 - 1780* (New York: The Macmillan Co., 1901).

4. William Henry Drayton, *The Letters of Freeman, Etc. . . .* (London, 1771). These letters from the *Gazette* (including many papers by other hands) were published in England, probably by Drayton, to position himself as opposed to both the Stamp Act and American responses to that bill. In these compositions Drayton shows himself to be a somewhat foolish young man, more interested in the display of his abilities than in the resolution of a serious

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problem. Also he makes remarks about ordinary Carolinians (p. 60) which prove that he was no democrat of any kind.

There is a reissue entitled *The Letters of Freeman, Etc.; Essays on the Nonimportation Movement in South Carolina, Collected by William Henry Drayton*, ed. by Robert M. Weir (Columbia: University of South Carolina Press, 1977).

5. William Henry Drayton, *A Letter From Freeman of South-Carolina, to the Deputies of North America, Assembled in the High Court of Congress at Philadelphia* (Charlestown: Peter Timothy, 1774). It is worth noting that most respectable people who opposed British policy in South Carolina were Old Whigs—excepting, perhaps, Christopher Gadsden. And also many loyalists. Only a few (including Anglican clergy) were true Tories (see John Drayton, *Memoirs*, I, pp. 142 - 145). And many who supported George III in the back country came around as soon as his coercive policies were set in motion.

6. Drayton's speeches outside Charleston did much to convert all but a few low fellows and malcontents to the position of the Provincial Congress. On the Tory proletariat, see John Drayton, *Memoirs*, I, p. 329.

7. The Law Speaker in the ancient Germanic nations was "required" to "know the law from memory and to recite it in its entirety" from time to time. In Iceland (where the office is visible, in all its purity, in ancient records), the whole law was spoken every three years. See Peter Hallberg, *The Icelandic Saga* (Lincoln: University of Nebraska Press, 1962), pp. 8 - 9. The Law Speaker is thus the prescription in person.

8. "Charge of the Honorable William Henry Drayton, Esq., One of the Judges of the General Session of the Peace, Oyer and Terminer, Assize and General Jail Delivery, for the Districts of Camden and Cheraws, in South Carolina, on his circuit, the fifth and fifteenth days of November, 1774, delivered to the several grand juries . . ." on pp. 959 - 961 of vol. I, *American Archives* (Washington, D.C., 1837 - 1852), ed. Peter Force.

9. John Drayton, *Memoirs*, I, p. 254.

10. *William Henry Drayton and the American Revolution*, p. 118. Gadsden usually is given this credit. Drayton's action is recorded in the *Journals of the Provincial Congress* (Charleston, 1776).

11. Drayton's greatest failure was in Georgia—where he suggested annexation by South Carolina, and was thereafter thrown out of the state.

12. Drayton almost always argued from authority, history and circumstance. He was very disturbed by the treatment of the colonies as if they were possessions, not parts, of Great Britain. His mode of argument was itself always to the contrary of that British view. Yet he claimed no more than the "unalienable rights peculiar to Englishmen".

13. John Drayton, *Memoirs*, I, pp. 231, 253, and 309. William Henry Drayton intercepted the royal mails and opened the dispatch pouches. The letters he found there proved that some plan involving Indians and slaves was being considered. Arthur Lee, the colonial agent for Massachusetts, also wrote his friends in Charleston to that effect.

14. John Drayton, *Memoirs*, I, p. 261.

15. I am indebted to the Huntington Library for copies of these materials.

16. The style of Drayton's 1771 *Freeman* letters is that of affected elegance and heavy irony. Drayton's craft in his chosen forms improved with remarkable rapidity.

17. *A Letter From Freeman of South-Carolina*, p. 37.

18. From Drayton's "Charge to the Grand Jury at Camden, November 5 and 15, 1774", Force, p. 960. The resemblance to certain passages in the writings of Edmund Burke is obvious. Drayton and his English contemporaries drew from the same sources.

19. *A Letter From Freeman of South-Carolina*, p. 4. Bernard Bailyn on p. 283 of *The Ideological Origins of the American Revolution* (Cambridge: Harvard University Press, 1967), identifies Drayton as an "eighteenth century radical". He is generally unaware of Old Whig revolutionary sentiment in colonial America. See also p. 46 of this influential book.

20. *A Letter From Freeman of South-Carolina*, pp. 20 and 24.

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21. The focus on matters judicial may have undermined Drayton's sense of form in the case of this composition. For his petition should have been placed just before his peroration. And according to the laws of rhetoric, he should have put less emphasis on the weaknesses of the colonial courts. The accumulative power of Drayton's letter is diminished by having its final pages entangled in disputes over procedures for appeal. Though the peroration repairs some of this damage.

22. As Drayton notes (p. 8 of *A Letter From Freeman of South-Carolina*), "Freeman" is the pseudonym of the speaker in the Petition of Right. But that persona does not show the legal hand as obviously as does William Henry Drayton.

23. *Ibid.*, pp. 11, 13, 43.

24. *Ibid.*, pp. 22 - 23.

25. *Ibid.*, p. 30.

26. William Henry Drayton, "Charges to the Grand Jury, Of general session held at Charlestown 1776 and 1777, commending the constitution as established by Congress March 26th, 1776; the rise of American empire and other topics, with presentments of the jury appended. At an adjournment of the court of General Sessions of the Peace, Oyer and Terminer, Assize and General Gaol Delivery, held at Charlestown for the district of Charlestown, on Tuesday, the 23d day of April, 1776—Before the Honorable William Henry Drayton, Esq. Chief Justice, and his Associate Justices of the Colony of South-Carolina." Reprinted in John Drayton's *Memoirs*, II, pp. 259 - 274.

27. *Ibid.*, p. 260. This praise of George II belies any theory that Drayton was opposed to monarchy in principle.

28. *Ibid.*, p. 265.

29. *Ibid.*, p. 264, the arming of Negroes, for instance.

30. *Ibid.*, p. 265.

31. *Ibid.*

32. *Ibid.*, p. 270.

33. *Ibid.*, p. 271.

34. *Ibid.*, p. 274. Drayton argues in this fashion in his "To Their Excellencies Richard Viscount Howe, Admiral; and William Howe, Esq; General, of his Britannick Majesty's Forces in America" (Charlestown: Peter Timothy, 1776).

35. "A Charge, On the Rise of American Empire, Delivered by the Hon. William Henry Drayton, Esq., Chief-Justice of South-Carolina: To the Grand Jury for the District of Charlestown" (Charlestown: David Bruce, 1776).

36. Drayton, in this address, moved toward a teleological rhetoric and spoke with confidence of God's direct involvement in American successes. A bit of political religion was good propaganda. But it is out of keeping with the rest of his rhetoric.

37. Drayton's theories concerning British weaknesses and American strengths are further developed in his letter to the Howes and in "The Genuine Spirit of Tyranny, Exemplified in the Conduct of the Commissioners, Sent by the King of Great-Britain, To bully, delude or bribe, the Inhabitants of the American States, Out of their Freedom and Property. With an Answer to the Declarations of the Commissioners, and Governor Johnstone" (Poughkeepsie, New York: John Holt, 1778). Drayton's argument in both of these essays is that the King's servants are offering nothing of value.

38. "A Charge on the Rise of the American Empire", p. 4.

39. *Ibid.*, pp. 10 - 11. For recent support of Drayton's reading of Dutch history, I recommend C.V. Wedgwood's *William the Silent* (New York: W.W. Norton & Co., 1968). This biography is an Old Whig *heldenleben*.

40. *Ibid.*, p. 23. He invokes the spirit of Lucius Junius Brutus.

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41. "The speech of the hon. William Henry Drayton, esq. chief justice of South Carolina, delivered on the twentieth January, 1778, in the general assembly—resolved into the committee of the whole upon the articles of the confederation of the United States of America", reprinted on pp. 193 - 207 of *William Henry Drayton and the American Revolution*. For comment on this segment of Drayton's career, see John R. Alden, *The South in the American Revolution, 1763 - 1789* (Baton Rouge: Louisiana State University Press, 1957), pp. 219 - 220.

42. *Ibid.*, pp. 204 - 05.

43. *Ibid.*, p. 194.

44. *Ibid.*, p. 197. His source is Beccaria's 1765 *Treatise on Crimes and Punishments*.

45. Drayton voted to deny statehood to Vermont because it would strengthen Northern influence. See *William Henry Drayton and the American Revolution*, p. 173. He also quarreled with Henry Laurens in 1778 when his fellow Carolinian seemed to put New England fishing rights ahead of a chance for peace that would protect their state from further war damage. North Carolina delegates wrote to Charleston praising Drayton as the South's true defender in the Continental Congress.

46. *Ibid.*, p. 206.

47. It is a point made by Charles M. Gray on p. xxv of his "Editor's Introduction" to Sir Matthew Hale's *The History of the Common Law of England* (Chicago: University of Chicago Press, 1971) that Old Whigs almost always reform by restoration, by bringing back "the old, normal order" which has been lost.

PART III

FRANKLIN AND JEFFERSON: THE MAKING AND BINDING OF SELF

For an inquiry into the elements of historical continuity in our cultural inheritance sustained or even strengthened by the American Revolution, a comparison of the *chef d'oeuvre* of Benjamin Franklin and Thomas Jefferson is an inevitable component. Franklin, of course, wrote a great deal for publication—enough to be accounted a minor man of letters. And Jefferson wrote only one full book, his *Notes on the State of Virginia* (Paris, 1785; London, 1787).¹ But it is not for our purposes unjust to set Jefferson's book about his state over against Franklin's masterpiece, a book about himself. Not unjust to compare the latter's *Autobiography* (a portion in French in 1791; more completely in English in 1818) to a work so completely its contemporary, so rational and practical and thoroughly Unitarian.² Who, say the older authorities, could more resemble Franklin than the author of the Declaration of Independence, in whose labors of revision the older Philadelphian had played a helpful part? Who so close to the printer/philosopher/inventor as the planter/philosopher/inventor? But if, with these assumptions, we look closely at the works in question, the results will be instructive, and somewhat contrary to what these scholars say.

Recent critical study quite properly connects Franklin's self-portrait with the inclusive tradition of dissenting spiritual autobiography.³ Along with the teleological history, the sermon of warning or Jeremiad, and the anthem or devotional, the accounting

to posterity for a life well spent and useful to instruction (for others, and for self, concerning ground lost or gained) is as much one of the dominant literary genres informing the Puritan inheritance as are the heroic travel narrative, the plantation novel, and the description of easily available Edens (immigration propaganda) constitutive of its Southern alternative. And therefore a mode of Puritan self-comprehension. The distinctions implicit in these very different kinds of imaginative activity will be a subsidiary teaching of this essay: distinctions between the Southern and other kinds of American imagination. Also suggested is the significance, in the long run, of a national preference for such modes of self-comprehension. But for our proximate ends it is best to begin with Franklin and with the self-congratulatory handiwork of his old age: the locus of his assertion that "... it would not be altogether absurd if a man were to thank God for his vanity among the other comforts of life" (p. 49). The *Autobiography* is, of course, unfinished. A Ulysses figure cannot be shown in death. Decorum requires this concession. For his function is to prepare his fellowmen to live life to the hilt, not to instruct them in the art of godly dying—as in the conclusion of Cotton Mather's portraits of the principal saints of Massachusetts Bay in his *Magnalia Christi Americana*. Indeed, Franklin does not bring his account down even so far as the period of his pre-Revolutionary activities as a representative of the colonies in England. He was, he reminds us repeatedly, such a busy man. He wishes us to take his recollections as the offhand reflex of his activities and as a response to the entreaty of friends. Besides, he believes that the most important part of his story is of how it began, that only a little reminding of his final success would be necessary to make his point. For Franklin's report is, as D.H. Lawrence suggests, of how he invented, created himself; then of how he got ahead; and of how we may do likewise (p. 43).⁴

A key to this organizing pattern in the *Autobiography* is the reiterated presence of lists of maxims scattered throughout its text. Franklin tells us that he acquired early most of the qualities or virtues which make for advancement and credit among men. By his

own admission he saw virtue in precisely this light, as a subdivision of "policy". Indeed, he planned from very early on to write a pamphlet entitled "The Art of Virtue" (p. 157). It is proper that we pause for a moment with that word "art". It means artifice. Melville caught its significance in his portrait of the sage in *Israel Potter*. His Franklin is nothing in himself, but merely calculation and a certain irony about the drama of conflicting, isolated individualities which he takes for the norm of life. Or perhaps it is better said that Franklin invented a series of persons, each of whom he found it pleasant to project for a time. What he called "reason" was their common denominator. Yet, as he also tells us, "So convenient a thing it is to be a *reasonable creature*, since it enables one to find or make a reason for everything one has a mind to do" (p. 88).

Franklin is nothing more or less than *l'homme moyen sensuel*, in a very low key. His art is finally so well developed as to require of him even "a few faults in himself, to keep his friends in countenance" (p. 136). The authorities tell us that Franklin's apotheosis, which stands mostly beyond the period of this narrative, came in his career as a diplomat. And perhaps he would have included all of that glamorous story, had death not cut him off in the midst of a final revision.⁵ But there are two kinds of diplomat—at least two; and one of them, the absolute chameleon who does not exist apart from his office, is a very dangerous thing to be. With the other common variety the man is always visible underneath the mask. We might think of the late John Foster Dulles as opposed to Talleyrand—or the good Duke of Wellington in contrast to a certain student of Metternich of recent influence in Washington. Franklin's friend, Benjamin Vaughan, tells him in a letter which the autobiographer included in his composition that one value of the book should be in showing that Franklin is "ashamed of no origin; a thing the more important as you prove how little necessary all origin is to happiness, virtue or greatness" (p. 137). A man of no origin is *nobody*—a Citizen of the World, no citizen at all.

Which brings us to the problem with Franklin as a model for Americans of his time and in the days to come—a problem which,

despite parallels in their intellectual positions, Jefferson's *Notes on the State of Virginia* does not raise. Thus far I have, of course, been emphasizing what I take to be the main thrust of Franklin's life—an atomistic individualism and prudent exploitation of the possibilities available in a new and unformed society. But there are other facets to the man. While on the one hand, he enjoyed Philadelphia precisely because he could bend it to his crafting will and make of it a place to exercise the considerable scope of his various talents for "projecting", on the other he accomplished a great many feats in protecting from intemperance of spirit the regime which he hoped to see transformed into what we now call "an open society". His diplomacy prior to Lexington and Concord was altogether to the purpose of binding in unison the fractious components of an irrational, customary, and "closed" British Empire. Even his attempts to organize a continental congress during the French and Indian War and the early disputes over the Stamp Act were efforts at producing a very limited freedom for the American colonies: *a freedom within the British imperial system*. Moreover, Franklin was at home in London, while he only "enjoyed" his years at Passy. Therefore the moral resemblance of his *Autobiography* to Francis Bacon's *Essays* marks him personally as an English modern of a very temperate sort: a "rational" Whig who, nonetheless, remains unmistakably English.

Much of the given identity of Franklin's culture he preferred to keep as it was—though not on prescriptive grounds. In no way is he a radical by disposition, but radical only by belief. With the wealthy of his city he preserved a special relationship. He was anything but a leveller. Lofty station was his great pleasure—the recollection that he had stood before kings and dined at their table (p. 144). And he loved for its own sake his skill as a printer, first earning the regard of his fellow Philadelphians because he made no pretense of modesty in being this one thing that he truly was. His genuine art he practiced with pride. Even so, Franklin's Philadelphia of 1765 - 1787 gives me pause. And especially the part he was allowed to play in its formation. It is most assuredly a cosmopolitan city, not like Charleston, New York, or even Boston.

There is no doubt that it was difficult to dislike the unctuous Dr. Franklin, no doubt that he wished to be liked. But a city full of gentlemen of his persuasion released to perform their nature was precisely the kind of place Adams, Henry, and its own John Dickinson were afraid to see shaping the character of their new country. Rebels or not, they were not *that* revolutionary. The new ultra-democratic Pennsylvania Constitution of 1776 disturbed them. And it did not come from nowhere. I am afraid D.H. Lawrence is correct in his final judgment of the progenitor of this spirit of innovation: "The pattern American, this dry, moral, utilitarian little democrat, has done more to ruin the old Europe than any Russian nihilist. He has done it by slow attrition, like any son who stayed home and obeyed his parents, all the while silently hating their authority, and silently, in his soul, destroying not only their authority but their whole existence."⁶

Jefferson's *Notes on the State of Virginia* lacks the human interest and the calculated drama of Franklin's small masterpiece. Our third President is never the rhetorician that Dr. Franklin so obviously and self-consciously set out to be (pp. 72, 124, 157, 164, and 180).⁷ But the difference hardly begins there. For one thing, no well-bred Southerner of that time would have felt free to convert the events of his life into a published blueprint for achievement of success in this world or felicity in the next. Neither would he put it down that the appearance of virtue was what signified—instead of its substance (p. 159). This confusion of manners with sanctimony localizes elsewhere within the boundaries of the Republic. True enough, Jefferson proposes many improvements in his society; and he might have endorsed the maxim that "self-love and social are the same." But he never forgets that he speaks from the inside of an extant order, a regime less than malleable, whose communal character gives protection and support to his own individuality and to that of the plain yeoman neighbors who surround him in Albemarle County.⁸

I am prepared to entertain the hypothesis that had Jefferson not been so "incorporated" a person, he might have become the sort of public force that we recognize in his older contemporary

from Pennsylvania. Or perhaps something much more sinister. For as Page Smith has recently insisted, there is a dark and secret quality about the man, something hidden behind all the documentation.⁹ But Jefferson *did* belong to the world described by Thomas Perkins Abernethy and Charles S. Sydnor.¹⁰ And when he writes or speaks for general consumption it is always the voice of Thomas Jefferson of Virginia that is heard, even when encouraging other citizens of the Old Dominion to assist him in the founding of a university. For the "advanced" school which he proposes is to be a place to protect young Virginians from unhealthy doctrines propounded at Princeton, Harvard, Yale, and other "dark Federalist mills" hostile to "their own country."¹¹ Jefferson speaks as a countryman, devoted to a concept of virtue which only a "closed", agrarian regime is likely to produce or sustain.

The explicit purpose of *Notes on the State of Virginia* is to define that order and the physical circumstances of its existence in answering twenty-two queries proposed to him by Francois, Marquis de Barbé-Marbois, plenipotentiary of the French government to the Continental Congress in Philadelphia. Jefferson began this work in 1780 and had finished most of it by 1784. The first half of the book, the curious naturalism of his reply to the Count de Buffon (a French scholar who maintained that the New World had a debilitating effect on all resident species), we may set aside as Jefferson's concession to the interest of his audience—and perhaps as an early outburst of Southern chauvinism. What I wish to call to close attention is less obvious at first reading. Look, for instance, in query one, on the legal status of the boundaries of Virginia as a place defined by history and prescript (pp. 3 - 4); at query thirteen, where he pleads "our ancient laws", each charter or constitution built upon its predecessor (p. 127); and at its sequel, query fourteen where he acknowledges "the continuing authority of" the common law of England, by which is meant "that part of the English law which was anterior to the date of the oldest statutes extant . . ." (p. 137). The legal entity that is Virginia is not a creation according to "the school of strict reason." Nor will it become

such a creation, even after a little minor, republican revision. The land and its characteristics are an "irrational given", one that prevents cities, though theory might require them (p. 109), that rewards the cultivation of wheat, though tobacco brings more profit in cash (p. 168). But this stubborn checking of human designs by the real would be no trouble to any of the young lawyers trained by Wythe. Indeed, no representative of the English legal tradition from Bracton and Fortescue to Coke and beyond is a "rationalist in politics".¹² Nor a rationalist in connection with any other questions of prudence. And particularly no "country Whig". Their intellectual *habitus* ran counter to argument from definition. What "natural rights" meant to them would have been unintelligible to the simplistic follower of Rousseau, who would find in history his villain. Jefferson, to be sure, was an optimist—as much so as a common law man and a Virginian could be. And a visionary *cum* rationalist in his capacity as a private man. But the form of *Notes on the State of Virginia* specifies that such rationalism works within "boundaries"—the title of his first query, and great theme of his book. And these boundaries grew to be more and more distinct with the passage of years.

But to develop this distinction between modes of discourse, legal and philosophical, prudential and ideological, and to undermine the received myth of the Master of Monticello sanctioned by the conventional misreading of the Declaration of Independence and related bits of amiable speculation, let us consider what Jefferson has to say in his book about the Negro and irrefrangible reality. The nervousness of his "natural history" in this connection (to say nothing of the space it occupies in so small a work) marks Jefferson's awareness that among his intended audience were many enlightened souls who would not share his antiuniformitarian assumption that all men, and all categories of men, are not by nature the same, that civilization is a delicate plant to be cultivated and preserved (pp. 58 - 64). Hence his tone is tentative and moderate, and his argument elaborate in the extreme.¹³ He can, of course, dispense quickly with the normative question of whether or

not slavery, and especially Negro slavery, is good for the manners of a republican society (query eighteen). His answer is an unequivocal no! Petty tyrants do not confederate well with their less authoritative fellows; and besides, Jefferson is consistent with the ancients in maintaining that a republic should be racially homogenous—in our case, Anglo-Saxon. Jefferson disapproved, we should remember, of most white immigration into America (p. 292). Which is to say nothing of the danger of servile insurrection if there are too many slaves—thanks to Lord Dunmore, so real a question in the Virginia of 1780 that it made revolutionaries of dozens who would have laughed at tracts and speeches on the “rights of man”.¹⁴ But there is no escaping the burden of his insistence that manumission must be linked to repatriation and that the freed Black will never be a suitable citizen for his ideal commonwealth: the inference that human inequality, even in “natural rights”, is so radical a fact of nature as to threaten all the beneficent prospects of Virginia detailed in the remainder of the volume—so radical that freedom of the slaves without repatriation would mean genocide for either one race or the other (p. 138). No misinterpreting his remark that “not their condition . . . but nature . . . has produced the distinction” (p. 142). And no ignoring the ease with which Jefferson moves from moral outrage to cheerful anticipation of the increase in the number of slaves (and wealth in slaves) another twenty years will bring (p. 176).¹⁵ Lincoln and his intellectual heirs have hidden from us how little Jefferson may have meant by his “literary phrases” of 1776. I have found that with honest students a fairly certain way to undermine this distortion is to invite a consideration of query fourteen, the long discussion of the Negro in Virginia law (pp. 137 - 143).¹⁶ To say nothing of his other comments on race—comments which appear to point in almost every direction.

Which presents us with the necessity of explaining the already noted distance between Jefferson’s announced principles and his cautious political performance. Though most notorious in connection with racial matters, this paradox appears in his reaction to

almost every important question pressed upon him by his times. And though Jefferson is less calculating than Franklin, a simple distinction of rhetoric offers the only possibility of a coherent reading of his ambivalence. For it is in broad rhetorical terms that we may best interpret the meaning of "equality" to the authors of our independence, and their relation to *a priori* propositions in general. The dichotomy in Jefferson's intellectual and moral life is less than it seems. To steer his "bark with hope in the head, leaving Fear astern" was to be addicted to the expression of broad sentiments of an expansive, optimistic cast.¹⁷ In Jefferson's view, such sanguine outpourings play a ceremonial, epideictic role as part of our "civil religion". It was his opinion that periodic articulation of these advanced views of human nature and humanitarian prospects was to the purpose of a republican regime in that they make for amity and the public peace. But I do not concede that these expressions make of him a uniformitarian or egalitarian of any now recognizable variety. Enthusiasm for equality and other fond hopes are part of the public man's *ad hominem*, proof that he is a person of good will. But it is, in this formula, understood that such hopes may not steer the ship of state as they do the inner man, are not to rend the fabric of the social order or the operations of government and economy. Taken in the subjunctive, with a prior authority reserved to prudence and popular assent (the first commandment in Jefferson's own political religion), they may, when coming from men of influence, work upon the citizenry as do Jefferson's "idealistic moments in his book—establish a kind of moral authority for what is being said. But only if circumscribed and contained, as they are in the Notes.

Only for a short while, when out of his element and an ambassador in France, does Jefferson toy with the idea that his favorite theories complimentary of the species might be translated into the language of political command. But never when in authority or an official capacity does he insist on such experiments. Otherwise we could not explain his success as a public man in a Virginia less inclined to "leave Fear astern". Indeed, after 1800 he habitually

referred to those who made such an insistence as the "Holy Alliance" of mere "abstract principle".¹⁸ In a voice which echoed all the Virginia statesmen of the great generation (Madison and John Marshall at times excepted), he could declare that theory and private conviction are properties of mind which "servants of America are not at liberty to follow."¹⁹ He distrusted systems; and, even as a savant, he scorned *a priori* propositions in practical politics.²⁰ If the enlightened should find their fellow citizens laggard in their perceptions of lofty truth, there was no help but to await "a revolution of opinion."²¹

All of which is to say that we should take as a definitive expression of Jefferson's American politics his First Inaugural.²² Rigid adherence to the Constitution, absolutely limited government, can secure to any administration a popular assent. And that total assent makes for a government strong enough to perform even the most difficult of its legitimate responsibilities. It follows that any administration lacking that support, whatever principle it acts upon, will not be strong. Other opinions are "theoretic and visionary". Jefferson's view of a republican polity did not differ greatly from that of his major adversary for the place of leadership in Virginia, Patrick Henry. The purposes of a society come from the "genius" of the people and are not imposed from without by the federal power. The alternative is "political intolerance" under the name of political principle—intolerance of the sort that has brought "throes and convulsions" to a Europe infected by the "isms" of the French Revolution.²³

Jefferson did, to be sure, defend the early stages of the uprising in France. But even while he assisted the liberal gentry in their formation of a lofty doctrine, he entertained no doubt that "the King, the mass of substantial people of the whole country, the army, and the influential part of the clergy form a firm phalanx which must prevail."²⁴ And later, as President and in retirement, he actually recommended that the French restore "the old family" and the South Americans accommodate themselves to the haughty dominion of Spain.²⁵ Which is another indication of how little difference

he expected the proper ideas to make, if dropped down into an inhospitable environment. The danger was that where history and setting were against them, their supporters would push them too soon, too far. The result then would not be the "temperate liberty" familiar to Americans—the liberty that they made a war not to create but to protect (p. 85). Instead, the cause of freedom would suffer a reverse. Therefore, it is almost predictable that Jefferson would *seem* to be a patron for almost every normative proposal ever a part of the political discourse of America. For amazement at the many kinds of Jeffersonianism that this country has seen, I recommend Merrill Peterson's *The Jeffersonian Image and the American Mind*.²⁶ And yet I must repeat with all possible emphasis that there is a touchstone for sorting out apparent conflicts, a touchstone visible in the particular components and overall design of *Notes on the State of Virginia*. I refer to Jefferson's constant commitment to politics from the bottom up, popular sovereignty in the deepest sense of that term. The antithesis of what Jefferson in his closet can affirm with what Jefferson as statesman, knowing *his* differences with *his* people, will attempt is a measure of its depth.

Virginia has an identity, derived from a particular history and a geography, objectified in a political disposition and made explicit in a basically English body of immemorial laws and customs: an identity which Jefferson acknowledges and respects. And he does this on principle. For he recognizes that even partial realization of the values to which he is attached depends upon the protection of that regime from any serious disruption. Only for the sake of that identity would he revise the Virginia Constitution in force when he wrote—revise it to make it more difficult to change and less easy to disrupt (pp. 118 - 129). True, he sometimes chafes at these restrictions, complains of the past's "dead hand". He was, after all, the man who could never stop rebuilding Monticello. But his grumblings are a measure of how strong he felt the identity to be, as are his reluctance to submit all of his proposed revisions of the standing Constitution and his concern with preserving all but a few monarchist elements in Virginia's ancient law. Once in office as

chief executive, Jefferson attempted to clear up his inconsistencies to his French friend, the philosopher Du Pont de Nemours: "What is practicable must control what is pure theory; and the habits of the governed determine in a great degree what is practicable."²⁷

Professor Peterson argues that Jefferson had a horror of "self-styled guardians of the public interest" who are "heedless of the historic fabric of law and opinion."²⁸ A group of them could easily effect consolidation of power under a Napoleon, a Cromwell, or a Cromwellian cabal—a "noble" despotism, with its character disguised in the aspiring, earnest sound it makes. In the very form of his *Notes* we have persuasive evidence that Thomas Jefferson was not a politician of that breed, in the pattern of his responses to the specific question put to him by the curious French emissary: first, a flat account of circumstances; then discussion of implications, which lifts just a bit in tone; then proposals for development, all tentative in nature, but in a form restricted by where he begins. Indeed, we must believe that Jefferson would have nothing whatsoever to do with consolidation, no matter how drastic the circumstances that might seem to require the expedient.²⁹ We should recall his violent hostility to the notion that Virginia might require a dictator to prosecute its cause in war (pp. 126 - 129). Through the Constitution he affirmed Virginia's link with her sister commonwealths. But when faced with the possibility that this natural unity, forged in the Revolution, would by extraordinary and perhaps by military means be converted into a more concentrated, "energetic" instrument, he (in 1798 - 1800) clearly planned for the secession of the South, driving before him in reluctant assent even the original Federalist himself, the troubled James Madison.³⁰

So it is not too important that we find a consistent argument in what Jefferson says about Blacks—that a just God will punish those who keep them in bonds (p. 163), that they are sexually somewhere between man and the "oran-ootan" (p. 138), that a separate Negro state in the West would be a "blot by mixture" because of "real distinctions which nature has made". For he means all of these

statements—some in the deliberative mode, some in the forensic and epideictic, depending on the context in which they occur and the degree of importance which belongs to their particular use. Just as he means certain parts of the Declaration of Independence—in a very restricted way, in terms of its total form. As in the *Notes on the State of Virginia*, most of what he says is bound by ineluctabilities: by meridians and miles, names and dates and documents. And when the question is “What shall we do?”, Jefferson never pretends that he can give an answer as if these antecedents did not exist: as if life could be started over in a vacuum. His imagination is what Donald Davidson calls “submissive”. And this quality links his book to the rest of Southern literature in a fashion we cannot mistake.

Lewis Simpson, in his recent *The Dispossessed Garden*, has identified the dominant motif in Jefferson's *Notes* as pastoral.³¹ With certain reservations, I agree. For Jefferson does glorify the life of the independent farmer, the life of co-operation with, not domination of, the given creation. But Professor Simpson is troubled by his recognition of the difference in tone separating queries fourteen and eighteen (the anti-slavery outburst under the heading of “Manners”). Slavery, he writes “corrupts the mind”, according to Jefferson, “with the passion of command”: “. . . it not only severs the connection between the mind of the master class and the soil, but it defies the very scrutiny of mind.”³² But according to my reading, the pastoral image in Horace and Virgil is not so closely connected to the Promethean culture of mind as this comment seems to assume. And it is customarily associated with a little benevolent slavery. And with all other inherited or traditional institutions—at least in so far as these institutions consort well with confraternity and an “unofficially structured” social regime. Competition, the commercial spirit, and the assertion of personal rights have no place in the pastoral dream. They belong to the world of Franklin, which is anything but pastoral. And to another kind of republican theory: a theory in which the uncircumscribed self can play a major role. Pastoral, unless merely escapist, is the

product of the submissive imagination which says yes to the providential in the human condition and works from that datum to achieve a tentative beatitude. So much is true even of the hard pastoral of admiration for Sparta and the Rome of the Republic. Unlike his French friends, Jefferson is more Cato than Socrates, not a full member of the Republic of Letters.³³ As do most Southern writers who come before and after his time, he keeps only one foot in that special principality. And it is therefore not quite fair to describe him (as I sometimes have) as our original "parlor pink" or "cocktail party liberal". We should leave that game to the ambitious young scholars who come forward in waves with each new publishing season to make a name with systematic anachronism and documented horror of the ancestral sins.³⁴ For even though political prudence and total rootedness of Jefferson's kind are out of fashion, we have no right to be surprised at these qualities in so absolute a Virginian of the 1780's.³⁵ Nor should we expect chiliastic politics from a man always cognizant of the limits which "defy the scrutiny of the mind", a man for whom some things were settled before he was born and others to be changed only with the authority of that settlement: a man who writes that "all the manna of heaven would never raise the Mouse to the bulk of the Mammoth" (p. 47).

As was the case with Franklin, the how and what Jefferson wrote, when he wrote deliberately, are one and the same. As a people we have gone with our heads with Franklin, with Jefferson in our hearts. Americans in general, with the South as a partial exception, are not certain what our freedom means, or in what connection it may signify. Or perhaps it is better said that we understand Franklin well enough, and only hope to understand what Daniel Boorstin has well described as Jefferson's "lost world".³⁶ It is no wonder that our hearts point in that direction.

The Making and Binding of Self

NOTES

1. Thomas Jefferson, *Notes on the State of Virginia* (Chapel Hill: University of North Carolina Press, 1955). Edited with an Introduction and Notes by William Peden. All subsequent citations to this work are included in my text.

2. Benjamin Franklin, *The Autobiography of Benjamin Franklin* (New Haven: Yale University Press, 1964). Edited by Leonard W. Labaree, et al. Subsequent references to this work are included in my text.

3. Daniel B. Shea, Jr., *Spiritual Autobiography in Early America* (Princeton: Princeton University Press, 1968). Also Robert Sayre's *The Examined Self* (Princeton: Princeton University Press, 1964).

4. D.H. Lawrence, *Studies in Classic American Literature* (New York: Doubleday-Anchor, 1955), p. 20.

5. Bruce I. Granger, *Benjamin Franklin: An American Man of Letters* (Ithaca, N. Y.: Cornell University Press, 1964), p. 227.

6. Lawrence; pp. 30 - 31.

7. All of the passages mentioned here refer to skill in the manipulation of audience reactions—particularly reactions to self.

8. On the paradox of Jefferson's advanced theoretical opinions in the contradiction of the conservatism of day-to-day politics, see R.R. Palmer's *The Age of Democratic Revolution. A Political History of Europe and America, 1760 - 1800*, vol. II (Princeton: Princeton University Press, 1964) pp. 522 - 525, esp. p. 522:

"He spoke for a kind of liberty and equality that had long existed in America, and did not have to be fought for as in Europe, a liberty that meant freedom from government, and an equality of the kind that obtained among yeoman farmers—a way of life that had been threatened by British policy before 1775, and was threatened by Hamiltonian policy after 1790"

9. Page Smith, *Jefferson: A Revealing Biography* (New York: American Heritage Publishing Company, 1976).

10. Thomas Perkins Abernethy, *The South in the New Nation, 1789 - 1819* (Baton Rouge: Louisiana State University Press, 1961), pp. ix - xi; Charles S. Sydnor, *Gentlemen Freeholders: Political Practices in Washington's Virginia* (Chapel Hill: University of North Carolina Press, 1952).

11. Letter to General James Breckinridge, Feb. 15, 1821.

12. Herbert Butterfield, *The Englishman and His History* (Hamden, Conn.: Archon Books, 1970).

13. See Donald L. Robinson, *Slavery in the Structure of American Politics, 1765 - 1820* (New York: Harcourt Brace Jovanovich, Inc., 1971) p. 89.

14. For a contrary view to the effect that owning slaves had a positive purchase on the manners and public spirit of most Virginia planters, see pp. 51 - 55 of John Taylor of Caroline's *Arator* (Petersburg, Va.: John Carter, 1818; new edition edited and with an Introduction by the author, Indianapolis: Liberty Classics, 1977). A cognate argument has recently been advanced by Edmund S. Morgan in his *American Slavery, American Freedom* (New York: W.W. Norton & Company, 1975).

15. A passage often overlooked in the commentary. Jefferson is here thinking of slaves as a property to be taxed, defending his plan for financing an American war fleet. In the context of the larger national identity and its economic prospects he can be quietly enthusiastic about slave multiplication. See also William Cohen's "Thomas Jefferson and the Problem of Slavery", *Journal of American History*, LVI (December, 1969), 503 - 526; esp. p. 518, where Cohen quotes Jefferson's advice to his manager (1815) on slave-breeding for profit.

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16. It is natural that he should speak in one voice in a query on law, in another in a section on manners, and in a third when he is thinking of Blacks as the tax-producing property.
17. Letter to John Adams, April 8, 1816. "Head" here signifies "bow".
18. Letter to John Adams, Jan. 22, 1821; to John Holmes, April 22, 1820.
19. Merrill D. Peterson, *Thomas Jefferson and the New Nation: A Biography* (New York: Oxford University Press, 1970), p. 290.
20. Peterson, pp. 45 and 770.
21. Peterson, p. 999; Jefferson to Edward Coles, Aug. 25, 1814. Jefferson told him not to free his slaves and emigrate to Illinois but to "reconcile yourself to your country and its unfortunate condition" by being the best possible Virginia slaveholding planter.
22. The Declaration of Independence is the last expression of his British politics—or a transition from those to his American.
23. I here gloss the First Inaugural. It is readily available in Edward Dumbauld's *The Political Writings of Thomas Jefferson* (Indianapolis: The Bobbs-Merrill Company, Inc., 1955), pp. 41 - 45.
24. Quoted in Smith, p. 222.
25. Letter to John Adams, Jan. 22, 1821; Peterson, pp. 745 - 746; 936 - 937.
26. Merrill D. Peterson, *The Jeffersonian Image in the American Mind* (New York: Oxford University Press, 1960).
27. Jefferson to Du Pont de Nemours, Jan. 18, 1802.
28. Peterson's *Thomas Jefferson and the New Nation*, pp. 111 and 703.
29. Ibid., pp. 436, 689, 698, and 700.
30. Ibid., pp. 623 - 625; also Smith, pp. 243 - 251.
31. Lewis Simpson, *The Dispossessed Garden* (Athens: University of Georgia Press, 1975), pp. 24 - 33. These remarks form a counterpoint to my comments on Jefferson's *Notes*. See also Leo Marx's *The Machine in the Garden* (New York: Oxford University Press, 1964), pp. 117 - 144.
32. Simpson, p. 30.
33. Simpson argues for the growth of a Republic of Letters in the South, a community beyond community, linked to others throughout the Western world, and distanced from their homeland by this intellectual and imaginative allegiance. Monticello is its symbolic Southern headquarters. See also Simpson's *The Man of Letters in New England and the South* (Baton Rouge: Louisiana State University Press, 1973), pp. 229 - 255.
34. Robinson's *Slavery in the Structure of American Politics, 1765-1820* is an example of this comment. Better (but closely related) is Winthrop D. Jordan's *White Over Black: American Attitudes Toward the Negro, 1550-1812* (Chapel Hill: University of North Carolina Press, 1968), pp. 430-436.
35. David Brion Davis, *The Problem of Slavery in the Age of Revolution, 1770-1823* (Ithaca, N.Y.: Cornell University Press, 1975), pp. 169-184. Especially pp. 182-183: "Jefferson . . . gave expression to the genuine conviction that his power to do good depended on . . . his social identity." His exchange with Edward Coles (1814) "dramatized Jefferson's commitment to his 'country'."
36. Daniel J. Boorstin, *The Lost World of Thomas Jefferson* (Boston: Beacon Press, 1960). John C. Miller, *The Wolf by the Ears: Thomas Jefferson and Slavery* (New York: The Free Press, 1977).

ALL TO DO OVER: THE REVOLUTIONARY PRECEDENT AND THE SECESSION OF 1861

As we seem almost determined to forget, the most important component of the celebrations of the Bicentennial year should be the recovery of a political teaching from the record of our national origins. Otherwise our festivities are merely empty shows. Yet some of us turn away from that obligation because we foreknow that the result of such pious meditation can only make us uncomfortable with the political configurations which presently masquerade as the legitimate progeny of those memorable events. Others conceal a fierce hostility to the prescription of 1776 in vocal devotion to the "spirit" of the Revolution—a phantasm best honored in the distortions of its letter.¹ A still larger group do not care for questions of meaning, so long as the familiar trough is full when the time for swill comes round. Yet even though some of our most reputable scholars labor to persuade us otherwise, there were few Americans in the previous century who were indifferent to the patrimonial revolutionary model. Or doubtful of its importance. Or, especially in the South, confused about what it required of them if they were to be worthy of its benefactions. But of all earlier American comments on the political burden of the Revolution (and with it, the Declaration of Independence), the most telling, intensive, and unanimous is that articulated by a particular group of Southerners operating in the public arena in 1860 and 1861, the authors of the movement for regional independence. These men knew intimately the history of colonial separation from Great Britain. And upon the

precedent of that history, they supported at least half of their defense of what they were about.² That the founders of the Southern Confederacy were emulating the struggles and sacrifices of their ancestors seemed to them the obvious fact of their situation.³ It is less apparent to our generation only because we have been encouraged to read both of these conservative counter-revolutions—reactions against dangerous innovations on the part of an executive authority—in another light. But the older view, which emphasizes their similarities, is easily reconstituted from the words and deeds of the persons involved. And with it some instructions concerning the protection of the public liberty as useful today as they were during those two turning points in our collective experience.

Stated briefly, the fathers of the Southern Confederacy saw their secession as an attempt to preserve a precious heritage, a known and agreed upon social, cultural, and political arrangement developed in an unbroken continuum from revered antecedents, a regime in the best sense of the term. And so did the rebels against George III. Neither group in creating what was in fact to be a new nation intended anything more than the preservation, intact, of their part of an older one—a preservation by amputation. Both were convinced that a conspiracy against their inherited rights and liberties had achieved control of the central government, that final authority over their lives was in the hands of men who did not represent them or show any concern for the security of their lives and property or for their hopes of a posterity. Indeed, their subjection to the moral and economic whims of these new and swollen authorities had been announced as an end in itself. And, though respectful of their past connections to this remote but now hostile center of power, they felt no hesitation in pleading the example of that past to resist what they perceived as obnoxious alterations of its nature: unsanctioned changes, however high-sounding might be the terms employed to rationalize their introduction. And their stubbornness was almost in proportion to the Yankee verbal effrontery of calling old ways new. Not rebels like the Puritans of the

1640's or the Jacobins of France—with no plan to replace their enemies in the seats of national power, they simply resigned from the whole of which they had been a part, taking with them a full code of law and a disposition to their own new unity under the old and familiar constitutional forms. They, as separate states, enacted that will to unity and then, once recombined, stood ready to defend themselves. When the threat of force to dragoon them back under the sway of a newly energetic and ambitious executive was added to legal and verbal provocations and the election of a hostile legislature in Washington, the pattern was complete. Independence was a thing forced upon them, finally, by the prospect of violence. But not for “light and transient causes” did they dissolve the bond. There was simply no choice if they were to remain themselves, preserve their own hard-earned sense of rectitude, and enjoy the name of honor in the memory of their sons.

Most of this argument from the analogy to 1776 (and therefore most of this reading of the Revolution) receives its official exposition from the chief magistrate of the new republic on the occasion of his inauguration. Its first President under the “Permanent Government of Confederate States”, Jefferson Davis, seized this opportunity to wrap himself in the mantle of the leader of the “Old Revolution”.⁴ The date is February 22, 1862, the birthday of George Washington. And the scene an inaugural arrangement beneath Richmond's monument to that other revolutionary chieftain. Therefore the results are meant to be a kind of official statement for the rationale of secession. That they are in passing a reading of the American Revolution is indisputable.

Davis begins by declaring that “the day, the memory and the purpose seem fitly associated.” He continues by expressing gratitude for the trust deposited in his care and moves from that apologia directly into a narrative of the antecedent circumstances which have brought him to this place and day. As in so many Southern documents from this time, the shadow of Lincoln's “House-Divided” speech hangs over Davis' performance. That the Union was to be made “all one thing or all the other” signified that

a purely sectional party intended to subvert the terms of the compact upon which the old Union of the States had depended. When added to the inflammatory language of abuse and vilification which had surrounded its triumph at the polls, the success of this principle had obliged the South to invoke a principle of its own: that contracts were to honorable men a sacred obligation and that to leave their interpretation in the care of adversaries was disloyalty of a more serious sort than mere political secession.

Davis then turns for the proof of Southern devotion to the original Constitution of the United States to a discussion of the terms of the new Southern Constitution and compares its operation with the conduct of Mr. Lincoln, the new Caesar of the North:

For proof of the sincerity of our purpose to maintain our ancient institutions, we may point to the Constitution of the Confederacy and the laws enacted under it, as well as to the fact that through all the necessities of an unequal struggle there has been no act on our part to impair personal liberty or the freedom of speech, of thought, or of the press. The courts have been open, the judicial functions fully executed, and every right of the peaceful citizen maintained as securely as if a war of invasion had not disturbed the land.⁵

This comparison complete, President Davis looks directly at the birth of the Old Republic and declares that "the experiment instituted by our revolutionary fathers" was a voluntary Union of sovereign States for purposes specified in a solemn compact" and that force could not be a part of its preservation. It would be "intolerable to a proud people" that they should remain in the Union while under general indictment or while threatened with respect to their right of self-government. Then he adverts with satisfaction to the military record of the Confederacy under the temporary government whose term had just expired. He foresees a long struggle and much sacrifice to come. Yet he predicts that, as with the Old Republic, the common experience of a revolutionary struggle "will be the bond of harmony and enduring affection amongst the people." The fires of battle will forge a Southern character as they had forged an American character in the previous century. A few words about the misnomer of calling a war of conquest a "civil" war follow these hopeful thoughts. And then he perorates:

Fellow citizens, after the struggle of ages had consecrated the right of the Englishman to constitutional representative government, our colonial ancestors were forced to vindicate that birthright by an appeal to arms. Success crowned their efforts, and they provided for their posterity a peaceful remedy against future aggression.

The tyranny of an unbridled majority, the most odious and least responsible form of despotism, has denied us both the right and the remedy. Therefore we are in arms to renew such sacrifices as our fathers made to the holy cause of constitutional liberty. At the darkest hour of our struggle the Provisional gives place to the Permanent Government. After a series of successes and victories, which covered our arms with glory, we have recently met with serious disasters. But in the heart of a people resolved to be free these disasters tend but to stimulate to increased resistance.

To show ourselves worthy of the inheritance bequeathed to us by the patriots of the Revolution, we must emulate that heroic devotion which made reverse to them but the crucible in which their patriotism was refined.⁶

Some of this language deserves very careful examination. Instead of the Rights of Man, the American Revolution had as its issue the "right of the Englishman to constitutional representative government". And these rights were prescriptive, "consecrated" by "the struggle of ages". Davis commits himself and his nation to an Old Whig reading of the American Revolution. The spirit of his declaration is that of 1688 and the Glorious Revolution. The horror of forfeiting inherited rights is implicit in his every utterance. But the only natural right appealed to is that of self-preservation. The final lines of his address complete its traditionalist appeal by invoking the favor of God and offering a prayer for His direction. It has been a mistake of the modern scholars to pay little attention to Jefferson Davis as a political thinker.⁷ In justice we must admit that there are arid moments in some of his legal disquisitions. But at least on this occasion, he articulated one of the central teachings of American politics and spoke for almost all his people, regardless of their station. It is of unavoidable significance that the fulcrum of his inaugural address is a reading of the choice for independence in 1776 as an insistence upon an historic identity: an insistence that one kind of Englishmen not be treated differently from other sharers in the common blood.⁸

The analogy of our first Revolution was in the minds of many Southerners long before the final choice for disunion had been made. Yankee visitors in the Charleston of the 1850's grew weary of its reiteration. And were puzzled or amused when the fiery old Edmund Ruffin advised William Lowndes Yancey of Alabama to call a meeting of Southern leaders on July 4, 1858, so that they might invoke the spirit of "the disunionists of 1776."⁹ For these Northerners had been trained to read their American legal history another way. The Revolution had occurred outside the framework of British law, was concerned with the "natural rights" of isolated individual men or with the surgings of a new national spirit. It had been a break, a total "founding". Only a few like Horace Greeley would concede that "if the Declaration of Independence justified the secession of three million colonists in 1776, why did it not justify the secession of five million Southerners from the Federal Union in 1861?"¹⁰ Yet, if we read the debates of the individual state secession conventions, and the newspaper or pamphlet literature which prepared the way for those gatherings, we find general evidence of precisely that argument.¹¹ Find it *over and over* again.

Consider, for an instance, the "Declaration of the Immediate Causes Which Induce and Justify the Secession of South Carolina from the Federal Union" by the moderate C.G. Memminger: "The state of South Carolina, having resumed her separate and equal place among Nations, deems it due to herself, to the remaining United States of America, and to the Nations of the world, that she should declare the immediate causes which led to this act."¹² What follows is a narrative of events leading up to the Declaration of Independence. The minimum necessary degree of self-government was even then the issue, determined on the principle that "whenever any form of Government becomes destructive of the ends for which it was established, it is the right of the people to alter or abolish it, and to institute a new Government." The summary for comparison and appeal to precedent continues through the confirmation of the already extant, *ex officio* union of the states in an instrument of government and then uses it to declare that "We hold

that Government thus established is subject to the two great principles of the Declaration of Independence; and we hold further that the mode of its formation subjects it to a third fundamental principle, namely: the law of compact. We maintain that in every compact between two or more parties, the obligation is mutual; that the failure of the contracting parties to perform a material part of the agreement entirely releases the obligation of the other." In the logic of this instrument (and Jefferson Davis and Alexander Stephens argued to the same effect) the equality of all men means that one body of citizens are *as citizens* equal to any other.¹³ Life, liberty, and hope signify freedom under a law which is the same, within its scope, for all who may come before it. And that scope is never great.¹⁴

In the view of these earliest genuine secessionists, a strictly sectional party (by its own announcement, with no feeling but hostility for one part of the commonwealth) had collected all the threads of power into its hands, had achieved that power on the basis of a false conception of the given law which made all American citizens part of a unified country, and had announced its intention to abrogate portions of the bond while adding others. This compact (and the true union which was its antecedent) was not, in their opinion, like a contract drawn up in an office. For it rested upon a prior amity, a common blood and history. And it involved no final appeal to abstractions outside its scope (that is, higher laws). Its purpose was never to alter the relationship of those political identities which joined to give it force. Mercantilism, the claim of new powers to tax, the Intolerable Acts, proscription, and the dispatch of troops compare on the one hand with one-sided tariffs, refusal to enforce selected laws, closing of the territories to Southern settlers, Northern reaction to John Brown's raids, and the threat of the "House-Divided" speech on the other. Except that the indignities of 1860 - 61 were far worse than those of 1774 - 1776.

Many Southerners (Gen. Robert E. Lee and Alexander Stephens, to mention two) were like men of the colonial "middle party": they wanted, for the sake of propriety, to await the onset of

violent invasion from those who insisted on their submission. And some of that company (like George E. Badger of North Carolina and, once again, Gen. Lee) doubted the value of apologies resting only on states' rights or the refinements of contract theory. But they did not doubt the relevance of the "right of revolution", as clearly defined by the English Old Whig tradition, to their situation. If even Lincoln did not deny that right, if the Great Emancipator went to great extremes to announce himself a constitutionalist on that point, why should his potential adversaries entertain another opinion? As their statesmen had told them repeatedly, from the England of 1628 and 1689, the Petition of Right and Declaration of Rights (to say nothing of the Great Charter), to the America of their fathers and grandfathers ran one unbroken prescription: one of the two parties to a legal connection cannot feel free to reinterpret their union for the sake of private advantage: and if they make the attempt, the other party is released from obligation to them. Indeed, even the *threat* of such aggrandizement is sufficient to require separation. Speeches which may be condensed to read, "You people are beneath our moral contempt, vile beyond words, condemned by God and man for insisting on your rights under laws which we helped you to make; but, even so, you may be confident that we plan no change in your relation to us through that law" would reassure only fools. And the Southern leaders were nothing of the kind. Speaking out of their consensus, Robert Toombs of Georgia told the Senate, "I was not educated in the school of passive obedience. I will not maintain the Union when the Constitution is overthrown. Obedience to such a Union is treason to the Constitution."¹⁵ And later, to the same effect, Jefferson Davis in his January 21, 1861, farewell to the same assembly, in refusing to accept a government "which threatens to be destructive of our rights", declared, "... we but tread the path of our fathers [as] we proclaim our independence and take the hazard."¹⁶ And, finally, Davis again in his Montgomery inaugural as Temporary President of the new republic: "As a necessity, not a choice, we resorted to the remedy of separation [and have by that means] labored to

preserve the Government of our fathers in its spirit."¹⁷ Throughout the War for Southern Independence, Davis had that earlier secession in the back of his mind. And still after the War, the same comparison, in his apology.¹⁸ And in the memoirs of the other Southern chieftains who survived the strife, their song is one of continuity and preservation, not invention or change.¹⁹

Yet it was not only the Confederate chieftains who reasoned in this fashion. The explanation of my insistence upon the representative quality of Davis' 1862 Inaugural is the plethora of equivalent statements which have come down to us from ordinary Southerners speaking in their private capacities. And from the aforementioned records of their solemn assemblies, particularly during the "great secession winter" of 1860 - 1861. By examining the *Journal of the Secession Convention of Texas, 1861*, we may discover evidence of an understanding of the original American things not unlike that of Toombs and Davis.²⁰ Throughout the *Journal* it is apparent that these frontier Southerners wished to be perceived as moderate men, free of any "spirit of social disorder", and that their examples in all their deliberations are the "revolutionary forefathers of '76."²¹ After accepting the Provisional Constitution for the Confederacy sent over from Montgomery, they urged their neighbors, "Let every man compare the new with the old and see for himself that we still cling to the old constitution made by our fathers."²² Through that instrument they hoped "to perpetuate the institutions of our fathers."²³ They admired Davis' Inaugural as Temporary President as a "document worthy of the primitive days of the Old Republic,"²⁴ and called their new militia "minute men."²⁵ They even went so far as to suggest that the South model its flag on the old banner of the original Republic.²⁶

Yet they are most interesting in their widely circulated "A Declaration of the Causes Which Impel the State of Texas to Secede from the Federal Union."²⁷ The prototype for this document is the Declaration of Independence. It begins with a general theoretical statement concerning the ends of government, goes on to develop a bill of particulars against the federal authority in

Washington and the Northern states, and concludes with an appeal to the good opinion of men and an assertion of their own honorable rectitude.

For these and other reasons, solemnly asserting that the federal constitution has been violated and virtually abrogated by the several States named, seeing that the federal government is now passing under the control of our enemies to be diverted from the exalted objects of its creation to those of oppression and wrong, and realizing that our own State can no longer look for protection, but to God and her own sons—We the delegates of the people of Texas, in Convention assembled, have passed an ordinance dissolving all political connection with the government of the United States of America and the people thereof and confidently appeal to the intelligence and patriotism of the freemen of Texas to ratify the same at the ballot box. . . .²⁸

Ten thousand copies were printed, of which two thousand were in German and two thousand in Spanish. The bill of particulars against the North is most instructive. The old charges recur: The central power has made use of hostile Indians to punish its own citizens. It has passed legislation which affected only those Americans living in certain territories under its authority. Northerners had sent seditious literature and arms and emissaries to “stir up servile insurrection”. They had been party to the theft of property and had refused its return. They had maintained economic arrangements to the disadvantage of their Southern countrymen. And, finally, through the creation of a sectional party, they were preparing to deny to the South any meaningful part in its own internal administration, threatening life, liberty, and the hope for a future.

The general statement with which the Texas Declaration begins fits perfectly with the specific complaints thus detailed. The Lone Star State had joined the Union under a treaty of annexation. And at that time it had specified its understanding of the established American regime. In this view, the United States was a white man’s country. Out of charity and religion, other considerations should modify the rigor of this determination. Slavery was a “patriarchal system”. But the “doctrine of the equality of all men” was, in their opinion, “debasing” and “at war with nature, in op-

position to the experience of mankind, and in violation of the plainest revelation of the Divine Law."²⁹ Governments are instituted of men to "promote welfare, insure domestic tranquility, and secure more substantially the blessings of peace and liberty" to those people who combine in its formation.³⁰ Others may enjoy its benefits only on the terms prescribed by full citizens.

The conscious imitation of the Declaration of Independence in this Southern apology for secession is an implicit response to other readings then current in the North. And an assertion of the kind of American identity Texans intended to preserve by leaving the Union and joining the Confederacy. Such sentiments were a commonplace of what Southerners wrote to each other in the months before and immediately after the outbreak of the War. Wrote a Georgia woman, "The idea is preposterous . . . [that] a people like ourselves whose republican independence was won by a rebellion, whose liberty achieved by secession . . . should attempt to coerce us."³¹ Yet most could agree with Robert Barnwell Rhett in hoping that "the spirit of '76 is not dead in South Carolina."³² Indeed, when the hour for separation came, the movement toward it seemed to many (and particularly the moderates) like a Populist uprising.³³ After John Brown, the Northern response to his raid, and Lincoln's election, the tide was irresistible.³⁴ And nice questions of justification were, as in 1776, laid aside.

But, before concluding with this selection from a mass of evidence, let us glance back briefly at the special case of Robert Edward Lee. For he confirms my argument that the right of revolution in Whig legal theory was as useful in justifying secession as the doctrine of states' rights and related theories of "conditional" membership in the Union. Lee was the son of a Federalist leader, one who was also loyal to his section and state. And the politics of Light Horse Harry Lee were the politics of his son. As did that Lee—and Henry and Jefferson—he regarded Virginia as his country.³⁵ His loyalty to the national government was from the bottom up—and though he could tell General Scott he "did not believe in secession as a constitutional right", did not believe that it was

anything but revolution to withdraw from the national identity, still he could justify the desire of his neighbors to be independent once "sufficient cause" for revolution had been provided by the new Republican government. Lincoln's call for 75,000 troops to subdue the lower South solved for him the moral and legal problem. Union at the point of bayonets held, as he said, no charms. After the war he could summarize, "Every brave people who considered their rights attacked and their constitutional liberties invaded would have done as we did. Our conduct was not caused by any insurrectionary spirit nor can it be termed rebellion, for our construction of the Constitution under which we lived and acted was the same from its adoption, and for eighty years we had been taught and educated by the founders of the republic and their written words"36 In his last days all he could add to this eloquent simplicity was that he could not repent the choice he had made and would repeat it, if the circumstances recurred. Washington was his model as a public man. And Washington could have done no other.

Lee also remarked before the election of Lincoln that it appeared the country was doomed to "run the course of democracy". By this he meant that the sovereign force of law (or the expression of sovereignty through law) was soon to be replaced by unrestrained popular whim, as manipulated by the demagogue. Lincoln's victory proved him to be correct. Yet the older tradition attempted to survive, the tradition resting on the Confederate reading of that earlier secession. Such is the implication left to us with the Great Seal of the Confederacy: Washington, mounted, with the motto *Deo Vindice*. We are today in a better position to understand how prophetic were the General's words than even he could have been. When the Declaration of Independence is construed to mean only its second paragraph, in isolation, and as a proposition concerning individual men in their natures, or capacities, or metaphysical rights—as something separable from their political inheritance as members of a given polity; when its universal truth is taken to signify that revolution is in order, not when self-preservation calls for it, but at any time when an *a priori* definition of man is violated; then we see what Lincoln's "new

birth" has come to mean. As I noted earlier, in their old age the surviving Confederate captains contemplated the national scene and were, by it, reconfirmed in the political opinions which they had risked all to defend. I shall let one of the most eloquent of their number, General Richard Taylor of Louisiana, the son of a President and the former governor of his state, speak for them all. These words conclude his *Destruction and Reconstruction*.

Throughout the land the experience of the active portion of the present generation only comprises conditions of discord and violence. The story of the six centuries of sturdy effort by which our English forefathers wrought out their liberties is unknown, certainly unappreciated. Even the struggles of our grandfathers are forgotten, and the names of Washington, Adams, Hamilton, Jay, Marshall, Madison, and Story awaken no fresher memories in our minds, no deeper emotions in our hearts, than do those of Solon, Leonidas, and Pericles. But respect for the memories and deeds of our ancestors is security for the present, seed-corn for the future; and, in the language of Burke, "Those will not look forward to their posterity who never look backward to their ancestors."

Traditions are mighty influences in restraining peoples. The light that reaches us from above takes countless ages to traverse the awful chasm separating us from its parent star; yet it comes straight and true to our eyes, because each tender wavelet is linked to the other, receiving and transmitting the luminous ray. Once break the continuity of the stream, and men will deny its heavenly origin, and seek its source in the feeble glimmer of earthly corruption.³⁷

Dick Taylor is in the tradition of the Southern Federalists. And therefore his canon of political heroes is understandably heterodox. But that even a man of his background tended to see the second American Revolution in the light of the first, and to connect both with the unbroken stream of English liberty under inherited law, tells us a great deal about the unanimity of Southern opinion after 1860.³⁸ And helps to demonstrate the way in which the secession of 1861 may be taken as a reading of the secession of 1776. What happens when it is interpreted the other way, as a radical break with the past, is a matter for the contemporary historian. And also a measure of the judgment exercised by those Americans who sought to save the Republic by refusing to accept its teleocratic transformation.

NOTES

1. See the periodical, *Common Sense*, published by the People's Bicentennial Commission, and their "Declaration of Economic Independence".

2. E.A. Pollard, *The Lost Cause* (New York: E.B. Treat & Company, 1866), p. 85, "The South's right of secession is only one-half of the double justification of her withdrawal from the Union; and in putting it on the right of self-government proclaimed in the American Declaration of Independence, and existing in all republican systems, she could claim its recognition from the highest sources, both of official and popular authority in the North."

3. In his *The Confederacy* (Chicago: University of Chicago Press, 1960), pp. 40 - 41, Charles P. Roland has written that Southerners "looked upon the American Revolution as the great prototype in their war for independence." In the same vein Carl N. Degler has remarked in his *Place Over Time: The Continuity of Southern Distinctiveness* (Baton Rouge: Louisiana State University Press, 1977), pp. 100 - 101, that it was a "frequently heard argument by southerners that secession was justified by the experience of Americans in 1776. On both occasions—in 1776 and 1860—southerners emphasized the resort to radical measures was dictated by the violations of ancient rights by those in power." See also E.A. Pollard, *The Lost Cause Regained* (New York: G.W. Carleton and Company, 1868), pp. 109 - 110.

4. See pp. 59, 114, and 515 of John Esten Cooke's *Wearing of the Gray: Being Personal Portraits, Scenes & Adventures of the War*, edited with an Introduction and Notes by Philip Van Doren Stern (Bloomington: Indiana University Press, 1959). Cooke refers always to the two Revolutions, new and old, as a pair. On the frequency of the connection made between the two conflicts in Southern literature, see p. 5 of C.H. Holman's "The Southern Novelist and the Uses of the Past", *Southern Humanities Review, The Bicentennial Issue* (1976), 1 - 11. There Holman writes that the American Revolution was the "subject of the classical historical novel before the Civil War. Another is the Civil War itself, which, in the view of many southern people, was an unsuccessful revolution fought to achieve essentially the same purposes for the southern region that the thirteen colonies had set out to establish in 1776."

5. For the full text of the speech, see pp. 198 - 203 of vol. V of Dunbar Rowland's edition of *Jefferson Davis, Constitutionalist: His Letters, Papers and Speeches* (Jackson, Miss.: 1923), p. 199.

6. *Ibid.*, p. 202.

7. See, for instance, Clement Eaton's *Jefferson Davis* (New York: The Free Press/Macmillan, 1977).

8. This view is developed in David F. Lovejoy's "'Rights Imply Equality': The Case Against Admiralty Jurisdiction in America, 1764 - 1776", *William and Mary Quarterly*, 3rd Series, XVI, 4 (October, 1959), 459 - 484.

9. See Harold S. Schultz, *Nationalism and Sectionalism in South Carolina: 1852 - 1860* (Durham: Duke University Press, 1950), pp. 226 - 229; and Laura A. White, *Robert Barnwell Rhett: Father of Secession* (Gloucester, Mass.: Peter Smith, 1965), pp. 14 - 15, 17, 24, and 121.

10. Quoted on p. 368 of Hudson Strode's *Jefferson Davis, American Patriot, 1808 - 1861* (New York: Harcourt, Brace and Company, 1966).

11. See Ralph A. Wooster, *The Secession Conventions of the South* (Princeton: Princeton University Press, 1962).

12. Reprinted on pp. 671 - 676 of vol. II of Alexander Stephens, *A Constitutional View of the Late War Between the States: Its Causes, Character, Conduct and Results* (Philadelphia: National Publishing Company, 1870).

13. See Stephens, vol. II, p. 126; Strode, p. 391; and Jefferson Davis, *The Rise and Fall of the Confederate Government* (New York: Crowell-Collier Publishing Company, 1961), p. 19.

14. See Stephens, vol. I, pp. 477 - 522.

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15. Quoted on p. 139 of William Y. Thompson's *Robert Toombs of Georgia* (Baton Rouge: Louisiana State University Press, 1966). And it follows from Toombs' logic that building another Union to replace the one perverted is loyalty to the Constitution.
16. *Congressional Globe*, 36th Congress, 2nd Session, p. 487.
17. Quoted on pp. 29 - 30 of Frank E. Vandiver's *Their Tattered Flags: The Epic of the Confederacy* (New York: Harper's Magazine Press, 1970).
18. *The Rise and Fall of the Confederate Government*, pp. 19 - 21, 51, *et passim*.
19. See Stephens, vol. II, pp. 532 - 537. See also Richard M. Weaver, *The Southern Tradition at Bay: A History of Postbellum Thought*, edited by George Core and M.E. Bradford (New Rochelle, N.Y.: Arlington House, 1968), pp. 116 - 166.
20. *Journal of the Secession Convention of Texas, 1861*, edited by Ernest William Winkler (Austin: Texas Library and Historical Commission, 1912).
21. *Ibid.*, p. 17.
22. *Ibid.*, p. 259.
23. *Ibid.*, p. 51.
24. *Ibid.*, p. 117.
25. *Ibid.*, p. 69.
26. *Ibid.*, p. 104.
27. *Ibid.*, pp. 61 - 67.
28. *Ibid.*, p. 65.
29. *Ibid.*, p. 63.
30. *Ibid.*, pp. 61 - 62.
31. Degler, p. 100. See also Michael P. Johnson, *Toward a Patriarchal Republic: The Secession of Georgia* (Baton Rouge: Louisiana State University Press, 1977).
32. Laura A. White, pp. 189 - 190.
33. Schultz, pp. 226 - 228.
34. See a speech by Congressman John D. Ashmore, a South Carolina moderate, *Congressional Globe*, 36th Congress, 1st Session, March 1, 1860, pp. 958 - 962. Ashmore describes the effect on his position of Northern beatification of John Brown.
35. Douglas Southall Freeman, *R.E. Lee: A Biography*, vol. I (New York: Charles Scribner's Sons, 1934), p. 440.
36. Quoted by Clifford Dowdey on p. 21 of his *Experiment in Rebellion* (New York: Doubleday and Company, Inc., 1946). Though the revolution of 1860 was no civil war, and the revolution of 1776 often was—within the individual colonies.
37. Richard Taylor, *Destruction and Reconstruction*, edited by Richard B. Harwell (New York: Longmans, Green and Company, 1955), p. 331.
38. An idea developed by the British historian, Lord Acton, in his essay, "Political Causes of the American Revolution", which first appeared in *The Rambler, New Series*, V, Part XIII (May, 1861), 17 - 61. For a contrary opinion, see Harry V. Jaffa, "Equality, Justice, and the American Revolution: In Reply to Bradford's 'The Heresy of Equality'", *Modern Age*, XXI (Spring, 1977), 114 - 126. (Reprinted in this volume.) On pp. 115 - 116, Professor Jaffa writes, "I have observed many times that the independence of the United States was accomplished by a Declaration that constituted a political act without parallel in the history of the world."

FIRST FATHERS: THE COLONIAL ORIGINS OF THE SOUTHERN TRADITION

Popular confusion about the history and origin of the South begins at the beginnings. And therefore also confusion about the nation at large, the role of the sections in its formation, its subsequent development and its lasting difficulties with the task of being one and many. Second-graders, even in Virginia, play Puritan and each November celebrate a lineage foisted upon them. About what Jamestown signified that had no augury in Massachusetts they are not encouraged to inquire. Children in Texas and Oklahoma grow up warbling of "rocks and rills", and no one notices the anomaly. But I must for the moment reach back beyond the rightful datum of Jamestown for the roots of Southern identity if the line of inquiry I have announced is to be pursued in the proper context and allowed to correct the distortions of which I have complained. And therefore I must begin before the beginning, with the idea of the South as it existed in the minds of Southerners-to-be. For that evidence we must look to the poets. For they dream first and better than do other men; and their dreams are often well preserved.

In 1607 the London or Virginia Company dispatched three vessels and more than one hundred men to establish their first American colony. For three years prior to this departure plans for the venture had been in the making, undeterred by the misfortunes of Sir Walter Raleigh's Roanoke expedition, cheered by the narratives of Hakluyt and the great adventurers. Inspired by the prospects of their enterprise, Michael Drayton, bard and patriot, wrote (in 1606) his ode "To the Virginian Voyage":

A Better Guide Than Reason

You brave heroic minds
Worthy your country's name,
That honor still pursue,
Go, and subdue,
Whilst loit'ring hinds
Lurk here at home, with shame.

Britons, you stay too long;
Quickly aboard bestow you,
And with a merry gale
Swell your stretched sail,
With vows as strong
As the winds that blow you.

Your course securely steer,
West and south forth keep,
Rocks, lee-shores, nor shoals,
When Aeolus scowls,
You need not fear,
So absolute the deep.

And cheerfully at sea,
Success you still entice,
To get the pear and gold,
And ours to hold,
Virginia,
Earth's only paradise.

Where nature hath in store
Fowl, venison, and fish,
And the fruitful'st soil
Without your toil
Three harvests more,
All greater than your wish.

And the ambitious vine
Crowns with his purple mass,
The cedar reaching high
To kiss the sky,
The cypress, pine,
And useful sassafras.

To whose the golden age
Still nature's laws doth give,
No other cares that tend,
But them to defend
From winter's age,
That long there doth not live.

The Colonial Origins of the Southern Tradition

Whenas the luscious smell
Of that delicious land,
 Above the seas that flows,
 The clear wind throws,
Your hearts to swell
Approaching the dear strand,

In kenning of the shore,
Thanks to God first given,
 O you, the happi'st men,
 Be frolic then,
Let cannons roar,
Frighting the wide heaven.

And in regions far
Such heroes bring ye forth
 As those from whom we came,
 And plant our name
Under that star
Not known unto our north.

And as there plénty grows
Of laurel everywhere,
 Apollo's sacred tree,
 You it may see
A poet's brows
To crown, that may sing there.

Thy voyages attend,
Industrious Hakluyt,
 Whose reading shall enflame
 Men to seek fame,
And much commend
To after times thy wit.¹

Here is Elizabethan sentiment in a Jacobean poem, an effulgence of hope and energy surviving from the previous era, a sense of great possibility and English self-assurance. The sea gives scope to the heroic impulse and rough chivalry that Drake and Frobisher, Gilbert and Hawkins had made a byword in all Christendom. Hakluyt is around to make of the new effort another chapter in the national inheritance of inspiring examples in narrative.² But as the seadogs had seen their ventures as efforts promising a reward above and beyond contributions to their own homeland's honor, so does Drayton imagine (and emphasize) substantial private advantage in

the prospects of his bold voyagers, fruits for merit performed in the manful subduing of "regions far". And Hakluyt (a practical, Protestant type, and the first in a long series of Southern land-promoters) may also be expected to do credit to that theme. For from the first, the South was two things: an arena for enacting and transplanting a slowly developed but well established English character and a demi-paradise, another (or almost) Eden where noble conduct would earn the noble reward of plenitude. Drayton goes back and forth between the pastoral, the practical, and the poetic. The union of the first two will be an occasion for the third.

With this poem I have, of course, touched upon the original and basic difference between the South and colonies further up the North American coast. Drayton envisions no attempt to improve upon the dominant culture of Britannia.³ The plantation of Virginia will be new in the sense of extension or re-creation—as Rome was a fresh but minimally different Troy, made out of the residue from a particular stream of history and for the sake of its perpetuation, with the possibility of felt discontinuity reduced to whatever comes from the experience of setting as opportunity *sans* impiety. Allen Tate, in looking back on over 350 years of Southern life, has spoken of an informing principle or impulse standing behind the full body of that record, a Graeco-Trojan myth.⁴ And the analogy to Aeneas does, for essentially conservative men, assuredly summarize their desire to have by migration a better share in the manner of life they already know and love. Virgil defined the problem for such sensibilities—how to have old things and have them more abundantly, but in a new place.

The allusion to Aeneas, looking both back and forward, is therefore an expected commonplace in the serious literature of the South. It is there from the first—overtly in the narratives of William Strachey and the collection of Samuel Purchas, by implication in John Smith and the early historians of the colony.⁵ And it lies just beneath the surface of Drayton's ode—in the anticipation of "heroes" to be "brought . . . forth" in "our name" and of future poets singing of this civilizing and subduing once they have been

accomplished: singing (along with "industrious Hakluyt" or his like) to "enflame" even later generations of the same stock to further exertions and greater rewards (honor *and* wealth) from "earth's only paradise". Thus, when Mr. Tate discovers Virgil, Dares, and Dictys behind the Yoknapatawpha Cycle or writes a poem entitled "Aeneas at Washington", he is being anything but inventive. Nor should we imagine that the notion of the South as a Troy (perhaps owing to the Aeneas-to-Brut genealogy of Geoffrey of Monmouth and Polydore Vergil) disappeared after settlement to be revived by the ingenious Southern master craftsmen of this century.⁶ Consider, as an illustration, the dedicatory poem which P.S. Worsley inscribed in a copy of his rendering of *The Iliad* and then, after Appomattox, sent to Robert E. Lee:

Thy Troy is fallen, thy dear land
Is marred beneath the spoiler's heel.
I cannot trust my trembling hand
To write the things I feel.

* * *

Ah, realm of tombs! —but let us hear
This blazon to the last of times!
No nation rose so white and pure
Or fell so pure of crimes.

* * *

An angel's heart, an angel's mouth,
Not Homer's, could alone for me
Hymn well the great Confederate South,
Virginia first, and Lee.⁷

Similar evidence is everywhere, as in the writings of Calhoun and William Wirt, or the extended Roman/American analogy of Bernard J. Sage's *The Republic of Republics*.⁸ But the significance of an earlier South's fondness for seeing itself inside the pattern of a Graeco-Trojan myth comes clear only when this tendency is viewed over against its American alternative—the myth of a new Jerusalem. And also the deeper meaning of the Southern myth itself as a definition of non-millenarian cultural aspirations. For I spoke earlier of original and basic differences, distinctions which have set

the region perpetually at variance with what finally became the dominant or national pattern. The South's "un-American" (because respectful) relationship to the previous history of Western man, and especially to its English branch, was, we must remember, radically different from New England's well before the coming of the first Negro to Virginia. The debate over the merits and demerits of slavery as a social and economic system for half-wild Blacks and seventeenth-century Anglo-Saxons living uneasily together in what was, for both, an unfamiliar context has obscured the overwhelming importance of that fact—an importance, for one thing, to an understanding of Southern slavery itself, both as theory and as fact.

New England's "city on a hill" carried with it the implications of a journey forward in time carried on by way of a journey in space.⁹ The godly commonwealth was to be a centerpiece for concluding history, for ushering in the thousand-year reign of the Saints predicted in the Book of Revelation and presided over by Christ the King.¹⁰ New Englanders were an elect armed from on high with the power and authority to hurry up this beneficent apocalypse. The Southern dream, despite its allegiance to the memory of Eden, remained inside history—looking back toward what Leo Marx has called the "cultivated garden", the best of the gifts of this life available after the Fall, if pursued with prudence, energy, honor, and regard for a wise prescription.¹¹ It involved no new and special revelations, no adepts' magic, and has been perhaps a bit too homely and commonplace to inspire the notice of our more idealistic national historians. But it was always there, and with an evident and altogether healthy effect. To test my argument, let us look once again at a few colonial texts. For words with deeds constitute the evidence of history and give to it an intelligible order. And there is, on this theme, in the era of settlement and in the eighteenth century, a sufficiency of both.

In the beginning we get once again considerable help from that lusty bravo, Captain Smith. A great abuser of *a priori* "theorick" schemes for government and the conduct of life's business, this rough soldier observed that, despite the attractions of reputation

that come for adventurers, “. . . I am not so simple to thinke, that euer any other motive than wealth, will euer erect there a commonweale; or draw companie from their ease and humors at home . . . to effect my purposes.”¹² These are plain words. But to them the hearty Elizabethan adds notes pastoral and heroic: descriptions of the physical perfections of Virginia’s natural wealth and expostulations to sluggards that they use their talents, test their mettle, and “imitate the vertues” of their ancestors to earn “honorable memory” of their lives.¹³ Howard Mumford Jones (in *The Literature of Virginia in the Seventeenth Century*) has written that John Smith was himself the subject of the first American epic, a work in twelve books (often attributed to the Captain, though by other hands). In *The Proceedings of the English Colonie in Virginia* (Oxford, 1612), “the figure of Aeneas/Smith, the transplanter to new shores of a wandering, yet divinely guided [i.e., protected] people, is dramatically contrasted with that of Powhatan, and both are described in grand and simple outline.”¹⁴ But the mixture of impulses that made Smith and his successors is perhaps better explained with their reconciliation of heroic, Virgilian pastoral, and practical (a reconciliation that is neither heroic nor pastoral nor simply practical) than with high narratives of desperate peril and improbable escape. Then we can return to the contrast of Puritan and nascent Cavalier and consider its implications in detail.

As has been noted frequently, the testimony of the senses—of eye, ear, touch, and taste—plays a major role in the accounts of Englishmen first discovering the South as a place. Robert Beverley, in his *The History and Present State of Virginia* (1705), summarized the physical experience of these first founders as being “so delightful and desirable; so pleasant and plentiful; the Climate, and Air, so temperate and sweet and wholesome; the Woods and Soil, so charming and fruitful; and all other things so agreeable, that Paradise itself seem’s to be there, in its first Native Lustre.”¹⁵ The reality of this bounty was only a little less dramatic than the expectation of it engendered in the immigrant by rumors of discovery and by the peculiar (and this-worldly) optimism of the age. Yet for even

the most sanguine of these would-be colonists the mere aroma of the new-found land, noticeable while still leagues away, was overwhelming: " . . . the twentieth, about midnight we had a marvelous sweet smell from shore, . . . strong and pleasant, as if we had bene in the midst of some delicate garden."¹⁶ The result of such ravishment was an interval of the kind of pastoralism *not* characteristic of the South, once established: a seduction of which John Smith frequently complained and by reason of which his community was almost destroyed. For, instead of a heathen "golden age" or genuine Eden, free from the curse of labor, the very wealth of the South's natural gifts offered another arena for the courage and energy which had in the first place made them available to the settlers.

That Southern pastoralism would be a little heroic and not in the least primitivist is foreshadowed by the good Captain when he grumbles of idlers who think that "houses and all those commodities did grow naturally" or that "all the world was Oatmeale" in Virginia.¹⁷ Newness of setting, the Indian menace, and the other surprises by kind or fortune guarantee that the husbandry necessary to settling will not be merely a drudge, that courage and character as well as strength will be engaged. Indeed, founding in and of itself is a quasi-heroic act, even if it is only a founding in this limited Virgilian sense, and not a new creation of the kind envisioned by some philosophers. Nonetheless, Smith counsels that men who are "Carpenters, husbandmen, gardiners, fishermen, blacksmiths, masons, and diggers up of trees" be included in the next company sent westward.¹⁸ For the new Troy, even with the authority of prescription, will require walls and fields, the accoutrements of location and outward signs of civil continuity, if it is to be neither a lotus land nor a reversion to the simple Arcadian state of wandering tribes and herdsmen.

Early rulers of Virginia heeded the advisements of their prototype and got their idle young gentlemen to work. And it is the argument of Louis B. Wright that the culture which developed under their guidance eventually changed the meaning of that social

denomination, away from the decorative and back toward the useful in senses both economic and military: senses which it had originally entailed and toward which the conduct literature of the Renaissance already had begun to incline.¹⁹ Many yeomen and city fellows came out to *be* gentlemen. They had to work at it. And perhaps the plainer origins of most post-Jamestown settlers who rose to occupy the squire's role they or their fathers had dreamt of had some hand in this modification. Another possible cause was the simple experience of pioneering, its challenge and its opportunities. For a new world is by definition an open situation where, despite structural predispositions, men may rise by dint of effort. But the structure, despite much movement, held. The admirable man in colonial Virginia was required to support it, to assume political and militia responsibility, and to reconcile the public and private use of his gifts. Furthermore, he was expected to achieve this balance with reasonable grace, to be in mind and conduct a force lifting the style of the community, minimizing its abrasions, and making the cultivated garden as much like Eden as it could be. This was the ordinary side of the gentleman's heroic mission, assurance for the ongoing of civil life which gives meaning to the acts of the statesman, the warrior, the poet, and the priest. And the effects of these commitments in manners as enacted by men of this class were supposed to permeate other levels of their community, to cement and shore up the battlements within which all orders found shelter.

Even so, the old tendency, the drift toward the pattern of the lilies of the field, reappeared with regularity. Consider in this connection the language of Robert Beverley in his anxiety over the enervating effects on her inhabitants of Virginia as an environment: ". . . they depend altogether upon the liberality of Nature, without endeavoring to improve its Gifts by Art or Industry. They sponge upon the Blessings of a warm Sun, and a fruitful Soil, and almost grutch the Pains of gathering in the Bounties of the Earth. I should be ashame'd to publish this slothful Indolence of my Countrymen, but that I hope it will rouse them out of their lethargy, and excite them to make the most of all those happy Advantages which Nature

has given them; and if it does this I am sure they will have the goodness to forgive me.”²⁰ Nature, for Beverley, is certainly no enemy to be subdued, as it would be for a Puritan. His worry is the other way around, a horror of the kind of human product William Byrd described in his *History of the Dividing Line* as “lubbers”.²¹ Add to this testimony Hugh Jones on the “climate-struck”, those whose “easy way of living” makes them “very lazy” (1724),²² the early reports from South Carolina (more of the same, though treated with less patience), and from Georgia (where men “have never been used to look forward, [and] live but to the present day . . . unwilling to labor for anything but subsistence”), and a composite, but durable tendency to “go native” becomes very evident.²³

The mood created by the aroma drifting out to sea remained a peril, the prospect of soft pastoralism *qua* primitivism. Effort, encouragement were going to be necessary to move every man toward that independence of which he was capable, to convert potential laziness into earned leisure and the Horatian arts of living.²⁴ Structure, hierarchy, and a push (up or out) would be needed to make for liberty. And when either liberty or structure was neglected, someone’s honor would be the victim—to say nothing of the colony’s general productivity. Bacon’s Rebellion was thus no anomaly, no outburst of democracy. Neither were the “Regulators” of North Carolina. The appropriate comparisons are with the elections of Andrew Jackson and Thomas Jefferson, the Populist revolts of post-Reconstruction days and the American Revolution itself, as the South understood that dispute. These explosions were, in the words of Howard Mumford Jones (in speaking of John Smith’s strictures of his “gentles”), “against a governing class derelict in its duty,” not rejections of the idea of class.²⁵ It is easy to demonstrate from any portion of Southern colonial history that egalitarianism got no foothold in the original South, that up-
roars came only of insistence that the always flexible structure of their world operate to the common good. “Heroic minds” will settle for nothing less.

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The early South's highest motives (a desire for good name), the practical objectives behind its founding, and the concrete circumstances of its unfolding thus guaranteed (even without the continuous influence of English political development) that it would come out neither Whig nor Tory.²⁶ Colonial mercantilist economics, the motive of wealth, honestly announced by Smith, was of course an influence in the former direction, as were the necessities of self-reliance, especially on the frontier. The free planter learned to trust himself, to be, *by his location in Virginia or Carolina*, something more than an Englishman, though only incidentally and unselfconsciously so—out of his whole Englishness. Like the Constitution back home, he *became* organically; he discovered himself in practice. Hence, the planter wanted no bishop, powerful bureaucracy, and no royal toady for governor. And he got his way early on, reshaping these instruments as he settled *in*, though with no impiety intended. Yet from the other side came the tug of the overall social model, acceptance of the English church, law, political habits and international concerns, and a freedom from all prospect of felt discontinuity. These, and also a temperate spirit in questions of innovation, an absence of ideology, a suspicion of schools as seminaries of unrest, and a general modesty about the universal importance of their new culture blessed the oldest South. New schemes met generally with cold regard unless attached to the most limited and practical objectives.²⁷ And learning, in men like Byrd, William Fitzhugh, or Robert Carter, was thought desirable because of the duties of their station, as a resource whose application proceeds from experience of the world—a resource perhaps dangerous in the hands of men not so prepared.²⁸

Families set well in the land or on the move in search of such establishment—these filled in the empty spaces in this Southern system. No fact is more important to its interpretation than its agricultural character, not even the presence of the Negro or the homogeneity of the whole population. And from landed families grew up the patriarchate, a social system more like old Scotland or

the Britain of the Anglo-Saxons than the England of Dr. Johnson. But these developments, as heroism served practical interests to be resolved in husbandry, required some time, and are the subject of another essay. New Troy is never quite the same as old. Nor should it be, if the essential prescription remains intact. H.M. Jones does well to speak of the first South as, like its earliest literature, "worldly", "pragmatic", and "Horatian".²⁹ The inherited religion is present, but with no prospect of fresh revelations and no excessive demands upon frail flesh. Things given are regarded as providential, the mysteries are not plumbed, and a modest variety of opinion on both subjects is accepted with no danger of intolerance. Lastly, the concrete particularity of things is regarded as both real and, relatively speaking, good. Blood ties are in the process given great importance—and the logic of slavery for another blood made more understandable. This world was clearly no place for the introvert, the philosophe, or the self-anointed prophet, no proving ground for the closet metaphysician/political tinker or his tool, the anonymous *prole*. The comparison which comes to mind was, of course, the favorite of many American colonial thinkers, Republican Rome. But what does not occur is an equation with New England.

But I get ahead of my narrative once more. The time has come for completion of the promised contrast of colonial subcultures, the definition of terms for the dialectic of our cultural and political history to this day. Unlike the South, New England *was* a departure, a creation of mind (or mind as vehicle for God's revealed will). Its founding intended something immodest, the correction and restructuring of all other polities. And its view of the given raw materials of the new world was even more aggressive than that of the Jews going down into Canaan. Hence, New England thought is rarely pastoral. And for the essentially Aristotelian or old Germanic notion of heroism (in men or nations) the Puritans could have only uneasy admiration. Regard for the prescription had been undermined by the process of Reformation and civil war. And the idea of ordinate pride made little sense to those under the shadow

of total depravity. Only a suspicion of "election" could support their self-respect. And if, as Max Weber and Company have insisted, the commercial spirit of Protestantism proceeds from a desire to "feel" elected, then that is something very different and far more supercharged than what Captain Smith made reference to in his promises of wealth. The problem with New England society was from the first its gnostic or millenarian character, its assumption of all of life's concerns under the heading of religion and its consequent refusal to live with contingency, inside time and history. The South has had dissenters from the first. They behaved well, were in theology otherworldly or Augustinian, yet kept heaven and earth (the two cities) clearly separate, practicing their faith while giving no provocation. Dissent (or congregationalism) was not the problem. The quality in the strict Puritan stance or dispensation that, as the South came to realize, was not to be tolerated was an eschatology and a strong tendency to press the process forward, to equate its fortune and its will with divine purpose, as perceived around Boston. Disagreement was sin; no practical or prudential questions could exist; abstractions were absolute, and no means were inappropriate in their service. That such an intellectual and emotional machinery was taking root north and east of Philadelphia, Dixie was slow to recognize. Restoration had occurred in England. Cromwell's minions were driven underground. And this moderate England, the mother country of the Revolution of 1688, stood as a buffer between the South and its sister colonies to the north—the territories of various sorts which became the *North*, once New England had imposed upon them an intellectual hegemony. But it could learn about these developments only after the coming of independence—did assuredly begin to learn about probable animosities (and thus about itself) after a government was formed. Our spiritual history commences at that point.

A Better Guide Than Reason

NOTES

1. Reprinted on pp. 296 - 297 of J. William Hebel and Hoyt H. Hudson's *Poetry of the English Renaissance, 1509 - 1660* (New York: Appleton-Century Crofts, Inc., 1929).
2. Richard Hakluyt's *Principal Navigations, Voyages, and Discoveries of the English Nation* appeared in 1600; earlier versions are less complete.
3. See p. 13 of Francis Butler Simkins' *A History of the South* (New York: Alfred A. Knopf, 1959). Simkins insists on the original force of this desire to reproduce England. In the same connection, see also Carl Bridenbaugh's *Myths and Realities: Societies of the Colonial Period* (Baton Rouge: Louisiana State University Press, 1952), p. 5.
4. Allen Tate, "William Faulkner: 1897 - 1962", *Sewanee Review*, LXXI (Winter, 1962), 160 - 164.
5. See pp. 78 - 79 of Louis B. Wright's edition of *A Voyage to Virginia in 1609* (Charlottesville: University Press of Virginia, 1964), which contains William Strachey's "A True Reportory"; the same image runs throughout Samuel Purchas' *Purchas his Pilgrimes*, a sequel to Hakluyt.
6. I refer to Dares Phrygius (*De Excidio Trojae Historia*) and Dictys Cretensis (*Ephemeris de Historia Belli Trojani*), whose pro-Trojan narratives had a great influence on subsequent European historians.
7. Quoted from vol. IV of Douglas Southall Freeman's *R.E. Lee* (New York: Charles Scribner's Sons, 1946), p. 260.
8. Bernard J. Sage, *The Republic of Republics* (Boston: Little, Brown and Company, 1881). For a discussion of this work, see pp. 133 - 135 of Richard M. Weaver's *The Southern Tradition at Bay: A History of Postbellum Thought*, ed. George Core and M.E. Bradford (New Rochelle, N.Y.: Arlington House, 1968). Concerning Wirt, see William R. Taylor's *Cavalier and Yankee: The Old South and American National Character* (New York: George Braziller, Inc., 1961), pp. 81 - 89.
9. I shall not attempt here to survey the scholarship on the Puritan tradition. What I employ is a private synthesis.
10. Ernest Lee Tuveson, *Redeemer Nation: The Idea of America's Millennial Role* (Chicago: University of Chicago Press, 1968). Tuveson's is a thorough account of this aspect of American Puritanism.
11. Leo Marx, *The Machine in the Garden: Technology and the Pastoral Ideal in America* (New York: Oxford University Press, 1964), pp. 86 - 88. This "cultivated garden" he equates with the classical "golden mean" or "middle way".
12. Howard Mumford Jones, *The Literature of Virginia in the Seventeenth Century* (Charlottesville: University Press of Virginia, 1968), p. 52.
13. Captain John Smith, *The Generall Historie of Virginia, New England, and the Summer Isles* (London, 1642; reprinted by University Microfilms [Ann Arbor] in 1966), p. 227.
14. Jones, H.M., p. 25.
15. Robert Beverley, *The History and Present State of Virginia* (Chapel Hill: University of North Carolina Press, 1947), edited by Louis B. Wright, pp. 15 - 16. For an equivalent passage, consider p. 86 of Hugh Talmage Lefler's edition of John Lawson's 1709 *A New Voyage to Carolina* (Chapel Hill: University of North Carolina Press, 1967). The Eden analogy was a commonplace in immigration propaganda and other literature written before the fact of settlement. See for instance the complaining remarks concerning this misleading propaganda by Patrick Tailfer in his 1741 *A True Historical Narrative of the Colony of Georgia* (Athens: University of Georgia Press, 1960), edited by Clarence L. Ver Steeg, p. 11. However, the early writings of the settled colonists toned down the primitivism and high ex-

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pectations toward a pastoral that expects some effort and some acceptance. Their use of nature could be called "co-operative". See also George Alsop's *A Character of the Province of Maryland* (London, 1666) for supporting evidence.

16. Strachey, p. 6, and Arthur Barlowe's "The First Voyage Made to the Coasts of America . . ." (1584), quoted on p. 37 of Marx. I have combined the two.

17. Quoted in H.M. Jones, pp. 45 - 46.

18. *Ibid.*, p. 50.

19. Louis B. Wright, *The First Gentlemen of Virginia* (Charlottesville: University Press of Virginia, 1964), especially the first and last chapters.

20. Beverley, pp. 296 - 297 and 318.

21. William Byrd, *The London Diary (1717 - 1721) and Other Writings* (New York: Oxford University Press, 1958), pp. 564 - 565.

22. Hugh Jones, *The Present State of Virginia*, edited by Richard L. Morton (Chapel Hill: University of North Carolina Press, 1956), p. 81.

23. Benjamin Martyn, "An Impartial Inquiry into the State and Utility of the Province of Georgia", reprinted from the 1741 edition in *Collections of the Georgia Historical Society* (Savannah, 1840—) I, 155.

24. For a history of this problem, I recommend David Bertelson's *The Lazy South* (New York: Oxford University Press, 1967).

25. H.M. Jones, p. 53. In the same vein, see p. 25 of Hartwell Blair and Chilton's *The Present State of Virginia and the College (1727)*, as edited by Hunter Dickinson Farish (Charlottesville: University Press of Virginia, 1964).

26. Hugh Jones, p. 83.

27. *Ibid.*, p. 81.

28. Governor Berkeley, for instance, rejoiced to report that in the Virginia of 1671 there were "no free schools". This was not so much a contradiction of Virginia's zeal for The College of William and Mary as it may appear. See Jay B. Hubbell's *The South in American Literature, 1607 - 1900* (Durham: Duke University Press, 1954), p. 8.

29. H.M. Jones, pp. 121 - 122. Another useful summary of Virginia letters appears in Richard Beale Davis' *Literature and Society in Early Virginia, 1608 - 1840* (Baton Rouge: Louisiana State University Press, 1973).

LINCOLN, THE DECLARATION, AND SECULAR PURITANISM: A RHETORIC FOR CONTINUING REVOLUTION

Though we have never been a “people” in the received and historic sense of that term, it is a commonplace of scholarship that Americans make up the most self-confident and least self-conscious of modern societies. For over two hundred years it has been our imagination that we “knew” our nature and destiny.¹ Unequivocally we affirmed that the obvious truth of who-and-for-what we were was contained in a set of sacred (but generally extra-legal) documents. Their authority was no more subject to question than that of the tablets given upon the mountain. Neither has a detailed inquiry into their formal properties (and therefore their intrinsic ambiguities) been encouraged. For our truth was “one and indivisible”. Of course, we sometimes quarreled over the meaning of these *a priori* guarantees of our future well-being, quarreled even as we agreed upon their canonical status. But whatever side of the disagreement the earlier American took for his own, his explanation of the dispute he had joined was always the stupidity and obscurantism of his antagonists.² Moreover, the breathtaking pace, institutionalized good fortune, and periodic convulsiveness of our record could be trusted to prevent any single view of the matters contested from being pursued into the hard divisions of a nationwide and nation-affecting conflict between permanent orthodoxies: trusted until after World War II, when the impact of said instruments had advanced a considerable distance in its purchase upon our common experience.³ (Of course, I must except

the South from these generalizations. And even there the hardening process did not achieve completion until the conclusion of the War Between the States when the South was near voiceless and discredited, so far as political doctrine was concerned. Furthermore, before this localized firmness could affect the general "we", the ongoing flow of the national "business" had caught up the unruly children of secession and mitigated their "otherness" into the exception which proves the rule. In any case, even if Dixie had remained to the present in obdurate and principled rebellion of the spirit, it could not have altered the national self-assurance of Union and its grounds. For the rest of the Republic has always expected the South to be something like "another country", a heresy *bound* by geography and therefore beside the point in a discussion of America at large.⁴)

My announcement at this point, and the occasion of my discourse, is thus simple: the for-the-sanguine-necessary process of disabusement by deserved disaster is near to fruition. It is now possible to consider the ambiguities of texture and design that make fair to divide us beyond all powers of healing—and to paralyze our hand abroad. For the first time in a century (at Gettysburg we were *almost forced* to learn how divided we could be), the generality of our countrymen have had some intimation of their subjection as a body to the ordinary laws of group mortality: some inkling that any number of circumstances in combination might ensure that they would cease forever to be anything recognizable as the United States. The realization has passed among us with little acknowledgement, like some cool subterranean breath of air freshening for an instant into a sunlight it has never before confronted and through a place of noisy, foolish celebration; and, while we shivered on the touch, each man and woman of our company sensed that no purpose could be served in speaking of the foreboding we shared, no reason found for notice of the omen because its presage was immediate and well-nigh irrevocable. Earlier allusion to the far away trumpets of apocalypse, the reference points of a bygone righteousness, provided for an in-

definite interval of remorse, repentance, and (perhaps) remission. Ninevah was spared! But this wind said only "soon—very soon". Therefore, without publicly specifying why, we are, as never before, prepared to doubt our secularized eschatology; to examine the "roads taken", the evangels heeded, and the prophets deputized to lead forward the march. And, for similar reasons, there is an urgency to our retrospection on once "safe assumptions" which resembles not so much the curiosity of the antiquarian or the animus of the partisan as the anguish of the self-condemned.

In accepting the opportunity described above, in focusing as a *practicing rhetorician* on the aforementioned internal contradictions of thrust and presupposition, I must from the first admit that my illustrative selection of the sanctified American writings is nothing like a full one. Fortunately, some materials in this collection are more sacred, because more rhetorical, than others. Three in particular demand close inspection in any survey of the lot. Even more fortunately, these three stand at the center of the total series to inform it with such power as they possess. Ordered by the logic of our democratic tropology, they are illustrations of the national debt to what the older rhetoricians called a "mixture of the modes", a species of confusion which has disguised from our view the probable sources of our present peril. (And, as I have excepted the South from my analysis, so must I except the Constitution. The two together, province and arhetorical instrument of law *qua* law, are the foreground against which my subjects play out their effects.⁵)

After the example of the poets, I must begin in the middle. For the significance of this procession comes clear only there, in Lincoln's Gettysburg Address. To state my argument briefly, what the Emancipator accomplished by confirming the nation in (or "institutionalizing") an erroneous understanding of the Declaration of Independence made possible the ultimate elevation of that same error in Mrs. Howe's "war song" and set us forever to "trampling out the grapes of wrath". More importantly, the proofs of this synopsis—and the proper instruments for extricating our country from the now evolving political and intellectual impasse

which it explains—*are available* in a conjunction of the ancient rhetorical distinctions between levels of style and kinds of discourse. There, and not in the straightforward dismemberings of the political philosophers. For the Declaration of Independence is a lawyer's answer to lawyers, a counterplea to the English government's explanation *cum apologia* of its American policy—a forensic counterplea in tone *and* organization. Moreover, the Gettysburg Address is an unmistakable memorial oration in the high epideictic vein prescribed for such solemn moments. And finally, "The Battle Hymn of the Republic" is certainly a "practical poem" of the Dorian variety, an exhortation to action which would have created no surprises had its numbers sounded through the ranks of Cromwell's Ironsides.⁶ Consistent with the pattern which produces all such "landmarks", everything to be identified in (and complained about) each of these singular writings is available in other sources contemporary with them: a cluster of related speeches, histories, essays in opinion, and poems surrounding and supporting their separate splendors. As I said above, history did not give them to us in isolation or according to the order of time and importance which they have assumed. Their *form* finally determined their meaning, their "family tree" as we presently conceive of it. The Declaration, Address, and "Hymn" are therefore epitomes, hallowed by usage (and confirmed by their own internal logic) into a millennialist and gnostic injunction to the country (and indeed the species) at large: an injunction which can never rest easy with the given social and moral nature of the poor souls whom it enjoins.⁷ The reason behind this movement of mindless rehearsal into myth is then the success of Mr. Lincoln's battlefield performance. In such a cauldron history is easily remade. For Lincoln's Pennsylvania miracle is visible in the shape and surface of its accomplishment, a retreat from proposition, discussion, and argument into oracle and glorified announcement: an advance from discourse of what is *believed to be* into an assertion of what *must be*, and yet forever remain in the process of becoming.

The most important formal property of Lincoln's great address is the biblical language in which it is cast:

Four score and seven years ago our fathers brought forth on this continent, a new nation, conceived in Liberty, and dedicated to the proposition that all men are created equal.

Now we are engaged in a great civil war, testing whether that nation, or any nation so conceived and so dedicated, can long endure. We are met on a great battle-field of that war. We have come to dedicate a portion of that field, as a final resting place for those who here gave their lives that that nation might live. It is altogether fitting and proper that we should do this.

But, in a larger sense, we can not dedicate—we can not consecrate—we can not hallow—this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor power to add or detract. The world will little note, nor long remember what we say here, but it can never forget what they did here. It is for us the living, rather, to be dedicated here to the unfinished work which they who fought here have thus far so nobly advanced. It is rather for us to be here dedicated to the great task remaining before us—that from these honored dead we take increased devotion to that cause for which they gave the last full measure of devotion—that this nation, under God, shall have a new birth of freedom—and that government of the people, by the people, and for the people, shall not perish from the earth.

For Americans, the effect of this epideictic encapsulation is what the Greeks called "Asiatic", after observing its prevalence and usefulness among nations living beyond their eastern boundaries. It is a prerhetorical rhetoric, suited to judges, prophets, and priest/kings who instruct and command without explaining: that is, suitable to a "closed" world. As no dispute concerning the materials it enshrined was imaginable, the end to which it was employed was obviously very different from that of the deliberative and forensic discourses of which the Athenian philosophers approved.⁸ Never did the epideictic serve in pure Hellenic "deciding before" or "judging after" a genuine choice.⁹ Probably its intent was instead the affirmation of a common bond—often *in* its user, but always shared by those who heard or read after him. Of course, as long as there have been "authorities" among or over their people, the style has remained a part of every rhetorician's equipment,

a magic to be used whenever what was there for the saying was less important than the saying itself.¹⁰ Now, we may at first reasonably resist this association of Lincoln and Oriental despotism, especially if we know of his Necessitarian Rationalism.¹¹ But before we resist too strongly, let us look at what the biblical style implies, and conceals, in his address, and ask if he is not assuming the role of a Joshua, whose authority is such that he need only speak the command of the Lord for it to be obeyed.

Among Americans in the middle years of the previous century there was one authority above all others. Revival and frontier had deepened a relationship established with settlement. We were a fellowship of "the Book" and took all government and political philosophy—even the Constitution—to be practical and unworthy of mention in the same breath with Holy Scripture. Politics might, within reason, be tested against revealed truth. But we never imagined more than a tangency for the political and the sacred—never a holy beginning or conclusion *by* politics.¹² In putting away our Englishness, and in adopting the First Amendment, we made these distinctions plain. We were thus a religious "community" as opposed to divinized state, a polity with no god's son to make us and no god's city to build. (That is, except in New England—of which more hereafter.)

Now, the proper voice of this communal orthodoxy—its style, if you like—was that of the Authorized Version of 1611, the translation for King James. Therefore, anything spoken to us that hoped, in South Carolina *or* in Massachusetts, to suggest the transcendent had to sound and feel like "a Daniel come up to judgment". Lincoln's strategy in the first sentence at Gettysburg is to lift beyond discourse, away from the political and into the "moral" order, what stands in the Declaration (despite its reference to the Deist's "Creator") to be proved and argued. The world of the epideictic, of "four score and seven" (versus "eighty-seven") or "our fathers", is an ultra-prescriptive realm which claims God for a sponsor and a sanction from outside time for what is done within it; a sponsorship through a "righteous blood" or genealogy (where fathers are im-

portant—particular, as opposed to founders—and private) and according to partially mysterious purposes (as opposed to “reasonable ends”). Certain men belong to that world by *a priori* definition; they *know* it is theirs (plus a little more, lest they worship in it their own devices and “go-a-founding”). Others join the dispensation through the lending of the established blood, but only after that blood is “located”. Hence, “brought forth”—an equivocal phrase, again implying a source other than “our fathers” themselves for the “new nation” which they “birthed”. (The image, it is worth remarking, runs with a full set of corollaries throughout the speech. Its final result is sacrilege by submerged metaphor: a phony “new testament” out of a phony “old”, with dead soldiers for a bridge.)

In contrast, the remainder of this opening sentence is not of Mosaic or “pre-classical” (as political philosophers use the term) stock. With “liberty” we enter the English Whig commonwealth of slowly earned and evolved rights and law, and with “equality” the French Jacobin satrapy, where men are dignified by abstract “proposition” and loud musketry. However, since liberty and equality are hieratically marked as “brought forth” by “fathers”, their doctrinal status as emulsible elements in a settled, blessed, patriarchal, and republican solution are thus certified with finality. Moreover, the fundamental question of the irreconcilability of these terms of honor is left aside, forbidden. So much for Mr. Lincoln’s *exordium*, the background of his message for the day. Once it has passed the reader or auditor without examination, most of its work is already done.

The biblical note is quietly sustained and our problem with it compounded in the two major paragraphs of the speech. Some of the religious language with which it opens is repeated, and some replaced. “Consecrate” and “hallow” are invoked to sanction a “new birth”. And the Union dead, not the clergy, shall provide an aegis for the event. Finally, the opening confusion issues in a peroration even more confusing. Collectively the red tide of battle is to redeem us—though this time the nation will midwife its own

reincarnation. The godly work of the fathers will be completed (or, more properly, replaced) in a joining of three in one. But, like Lincoln's first "offspring", this final monster is a bit puzzling, his "New Testament" as peculiar as his "Old". For government "by" the people might not be "for" the people (*vide* Plato on "elected" physicians and ship captains).¹³ Similarly, government "of the people" is possibly neither "by" nor "for" them (remember Disraeli on Tory Democracy). "Four score and seven" or "fathers" can be reconciled to "for" and perhaps "conceived in liberty" to "brought forth" (an interesting compromise between these first two realms of discourse or "families" of terms, as if a Pope should use his authority only to deny it); but none of these to "of" or "by". For conception and dedication are portions of an organic process which gives us identities neither similar nor unbounded. "Equality" alone consorts well only with "by". And "of" implies representatives, courts, and the "system of liberty"—not inheritance. But to see what is most mischievous in this "new birth" and "baptism" we should recall that Lincoln had predicted a "new founding" as early as his "Springfield Lyceum Speech".¹⁴ And that concentration of power in the executive branch of government would be its final fruit. What it is that "shall not perish" (recalling perhaps the most familiar passage in the New Testament, John 3:16) is not the soul, the new man, the re-born Christian, but a divinized state.* Then let us forget the paradox and oxymoron before us and look back at "liberty" and "equality" in the Declaration of Independence and then forward to "The Battle Hymn of the Republic".

I have already mentioned the quality of counterclaim (or legal "charge") in our manifesto of 1776. Only the opening sentences of paragraph two of that special pleading seem out of place in the

*Professor Eric Voegelin has written me that "Lincoln's government 'of the people, by the people, for the people' is even more a millenarian blasphemy than becomes apparent from your paper." Voegelin traces the formula to Wycliffe's prologue to his Bible and beyond to Romans 11:36. Other sources are "in the stoic symbolization of the cosmos as brought forth of God, by God, for God" and in Marcus Aurelius. "There you have the transposition of a cosmological formula into a millenarian formula for political action." (Letter of Sept. 6, 1970)

Declaration's forensic whole. And, as the epideictic/beatific swallows up "liberty" and "equality" in Lincoln's Civil War speech, here also the disposition and weight of other components in the total apologia—their historic and prescriptive appeal to the customary and the English, the inherited rules governing prince and subject—cancel out or modify the apparent vanity of "self-evident" and "all men". There are those who argue that the peculiar lines were to serve as a concession to the Revolution's "leftmost wing". Others contend that they may be no more than what Mr. Jefferson was able to "smuggle in" (in satisfaction of his *philosophe* streak) because his compatriots in the Continental Congress refused to read into his composition anything more than was anticipated in the Glorious Revolution of 1688.¹⁵ The reader should look elsewhere for a history of the Whig doctrine and idiom which could "neutralize" such words: only as much equality as is consonant with liberty and necessary to a modest minimum of human dignity for freemen; and only that liberty recommended by the English experience and enjoyed by the Anglo-Saxon forebears. But—and this is my point—the dominance of that Whig temper is evident, especially in the deletions from Jefferson's original draft which the Congress imposed upon their young spokesman. We can presuppose it.¹⁶

Now what is a solicitation *from* a given Whig law and *for* a good repute among the nations? First of all, it is a bill of particulars against the royal government making plain that the Crown—in violating its well-defined prerogative—has forfeited all purchase upon its chartered creations, the American colonies. (It is noteworthy that the Declaration speaks for the independence of the *separate* individual colonies and thus belies Mr. Lincoln's purposefully mistaken chronology.)¹⁷ Following the pattern of another variety of legal instrument, it says, "You, not I, destroyed our connection." For under a rule of law, liegemanhip and lordship are indeed like partner and partner, man and wife: neither role exists unless both are observed with some strictness. Portions of Jefferson's catalogue, especially in his original version, are a reaching after

visceral influence on natural (not reasonable) and emotional men: persons of distinctive temper, antecedents and culture. Often overlooked, they add racial and Christian/traditionalist appeals to the case at law. Certain lines evoke the horror of "servile insurrection" and black overpopulation; others refer to mercenaries and kindred affronts to the "common blood"; and still others complain of British involvement with "merciless Indian savages". Elsewhere we read of the impropriety of resemblance to the conduct of "Infidel powers" in the policy of a "Christian King". Lastly, all of this in-view-of-paragraph-two surprise is hedged with a disclaimer that the colonies intended no revolution when they first made remonstrance and is coupled with an admission that political restiveness and innovation are, in most circumstances, to be avoided. The close goes the same way—a retreat into "sacred honor".

Prescriptive laws and kings and honor have nothing to do with the "self-evident" and "metaphysically" proved first principles of Burke's doctors of the closet. History is their "legitimate" ancestor; trial and error, reputation and disrepute, sifting and selection stand behind Jefferson's appeal. In weight, this argument from the record will not replace revelation or anointment by a Samuel. But it is far removed from the abstractions of the Encyclopedists or mechanical universe of their perpetually absent "Creator". And therefore it does not pretend, despite "self-evident", to bespeak His will. Respected for what it is (and with its explosive sentences circumstantially grounded and converted into "mere argument" by a Whig rhetoric), the Declaration is agreeable enough. Its implicit denial that there was a "founding", its complexity and dialectic (recognized by most responsible American leaders who invoked the document before 1860, and acknowledged by the very different language of the 1787 Constitution), are, I repeat, inverted by Father Abraham.¹⁸ And the forces which he thus released in manufacturing his "political religion" find their tongue in "The Battle Hymn of the Republic".¹⁹

There is no space here for detailed discussion of the two hundred and fifty years of New England self-delusion which are

gathered in Mrs. Howe's masterpiece. A private redaction will have to serve my purpose. I inject it because some such recalling is necessary to the explication I intend—and (in reverse) serves as evidence for the readings just concluded.

It is above all else a sense of having been "called out" for (and into) a special covenant with God, an awareness of a "mission among the Gentiles", that distinguished colonial New England. As John Crowe Ransom writes, the Puritans were persuaded that they had caught God when He had caught them: had "fetched the Pure Idea in a bound box/ And fastened Him in a steeple."²⁰ First they were to be "a city on a hill", an example to the heathen, a sanctuary to which "the wise and just ought to repair." And then, when stronger, they were expected to overreach the boundaries of that elevated place by more vigorous, impatient, and thorough reformations.

Early New England history is, for the most part, an examination of the covenant theory at work: a sequence of signs, rewards, and punishments. And the same holds true of biography. Even though the individual Puritan, in composing an account of his own life or that of another Saint, might find reason to doubt his subject's election to the order of Grace, there was still satisfaction for the unfortunate through association with the "elected enterprise". Poetry and of course theology offer evidence of the same assumptions, as do the great sermons, the dominant literary type in the milieu.

Later, as success in the exercise of free will undermined Calvinist assumptions concerning foreordination, and as scientism drove to cover the old certainties about original sin, blood redemption, and the limitations of human reason, the vital heart went out of the "Good Old Cause". For without a lot of punishment to go with triumph, without some body of authority to restrain freedom and to channel the "inner light", the godly commonwealth inevitably suffered from its own accretions of power and prosperity. The subjection of Nature and of enemies (to say nothing of New England's full educational hegemony over other Americans) vitiated the ancient Puritan bias toward self-doubt and self-

examination. However, the eschatology survived—tempered into a posture of proprietary responsibility for the nation's (and world's) moral, economic, and political life; survived mundane, yet zealous as ever before. From John Winthrop to Ben Franklin to the 1970 Massachusetts anti-draft legislation, this movement toward spiritual arrogance without spiritual substance has been uninterrupted. Indeed, the now familiar secular Liberalism of the American intellectual Establishment is the natural issue of the New Jerusalem in the West—by Unitarianism out of internecine strife. Faith in a chosen status is its continuing patrimony—though the chooser becomes some airy Zeitgeist, and not a living God. Mr. Lincoln's "political religion" is a statement of its fullest revelation in this sequence and Mrs. Howe's poem a device for ensuring the enactment of that "Word" as law.

If the epideictic manner may be broken down according to degrees of intensity and/or purity, the admonition of the "Battle Hymn", an *ex cathedra* pox upon the Moabites in Dixie (and command that they "be laid waste, utterly"), *appears* to be of its highest flowering. These stanzas seem a marching order *sui generis*, a rousing somehow at once forensic, persuasive, and patriotic. Yet look again, closely:

Mine eyes have seen the glory of the coming of the Lord:
He is trampling out the vintage where the grapes of wrath are stored;
He hath loosed the fateful lightning of His terrible swift sword,
His truth is marching on

Glory! glory! Hallelujah!
Glory! glory! Hallelujah!
Glaory! glory! Hallelujah!
His truth is marching on!

I have seen Him in the watch-fires of a hundred circling camps;
They have builded Him an altar in the evening dews and damps;
I can read His righteous sentence by the dim and flaring lamps,
His day is marching on.

I have read a fiery gospel, writ in burnished rows of steel;
"As ye deal with My contemners, so with you My grace shall deal";
Let the Hero, born of woman, crush the serpent with His heel
Since God is marching on.

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He has sounded forth the trumpet that shall never call retreat;
He is sifting out the hearts of men before His judgement seat;
Oh, be swift, my soul, to answer Him! be jubilant my feet!
Our God is marching on.

In the beauty of the lilies, Christ was born across the sea,
With a glory in His bosom that transfigures you and me;
As He died to make men holy, let us die to make men free,
While God is marching on.

At this point harder questions are required. For the "Battle Hymn's" outreach toward a nonpareil power identifies it as more than (or pseudo) epideictic. There is a note of hysteria in the poem, a discoloration very remote from the "speech of throne and altar."²¹ Genuinely confident and secure authority, operating from transcendent ground, does not push quite so hard.²² And what such authority tells us keeps that ground at a greater distance from the labors of men—*does this in order to extend its connections in the world*. In a word, it performs no blasphemy. Of Mrs. Howe, we cannot say as much. Let me make the charge specific by glossing individual passages from her poem.

The most striking feature of the "Battle Hymn"—that is, after its confident appropriation of the flame, wind, and trumpet of Jehovah—must be its use of Christ's Second Coming. We should at this point recall Mrs. Howe's prototype, the solid doggerel of "John Brown's Body": a lively song itself (ironically) based on a Southern folk hymn concerning the way to *the* heavenly city, the city where there are *no politics*. The madman of Harpers Ferry is transformed in that anthem into a Christ-figure—modestly, and with no claim to a full equation, but transformed nonetheless. His is the redemptive death lifting the weight of a specific wickedness from our collective back. Brown, however, was an embarrassing personage to a respectable New England feminist Unitarian lady such as Mrs. Howe. Like Brown himself, she would use no vulnerable surrogate. The "Hero" in line three of stanza three is Christ, in *propria persona*. And therefore General Burnside on his way to Virginia is somehow metamorphosed into Gabriel ushering in the real millennium described by St. John of Patmos. The binding of the serpent and

the Jesus of the Judgment are assuredly from Revelation. And the lilies keep the latter at the requisite remove from pure Thunder—from violations of the Trinity.²³ Then we are prepared for peroration: the identification of a socio-political goal with the sacrifice of the Cross. Even the slower tempo of the music in the last stanza exudes confidence and finality. She meant every word.

I have said enough of blasphemy. It is all too easy for us to be persuaded of the complaint—that is, *if we want to be*. Contemporary Americans are however perhaps so accustomed to a reversing of the original order of priorities in Christ's redaction of the Decalogue that we forget His two commandments were not always so disposed. Hence, we are also prone to forget the private and cultural circumstances in Mrs. Howe's life which compound and complicate her presumption and its meaning for us. In fact, it is both most surprising and most predictable that she should thus proceed, and boldly: surprising with respect to historic Christian teaching ("Thou shalt not take the name of the Lord thy God in vain" was yet a commandment in 1862); and probable because of the New England intellectual experience which set the "saints" aside from that teaching. And what was, though shocking, predictable in her abolitionist Boston is even more an established paradox today, a contradiction at ease in this Zion because she, and Lincoln, and the trends they bespoke accomplished their objectives. In a word, we do not see this quality in the "Battle Hymn" because it is now our "orthodoxy"—even in the most conservative circles. "All now are born Yankees in the race of men," writes the poet Allen Tate.

Mrs. Howe's verses *are* a reversion to long rejected beginnings. For the sound and feel of an authority she had to have, she was forced to reach back to her father's God and Jesus of "wrath", toward a doctrinal matrix set aside in "new hope" thirty years before. By 1845 New England had taught her children (and their heirs of the spirit in the Middle West) how to do this sort of thing. *How to do it, I must add, if the occasion be political*. Probably the educational process involved was an unconscious one, for both parent and offspring. And for a time all were forced to be careful with the "forbidden

knowledge". But 1820, 1850, and Southern secession gave the banner into their hands—and they were careful no more. Lincoln legitimized the process here under consideration—and, after the fact, gave status to the complex of forces and expectations which the "Battle Hymn" released, the "armed doctrine" of Manifest Destiny in its mature phase.²⁴ With Mrs. Howe we came up against the gnostic "thing-in-itself". And we are still there.²⁵

I have earlier suggested that the way into this paradox *is* the way out. For a curious consideration of Julia Howe's politically partisan Jesus should engender in the rhetorically and theologically literate the shudder requisite to its exposure—and should deflate the three "holy documents" to the status of stratagems instinctively, or with forethought, designed to an immediate practical end, formed to take advantage of an immediate practical situation. The Continental Congress needed to draw more people into the Revolution and to "improve its international image"; Lincoln needed to transform Jefferson's composition in order to reconstitute the Union, "control" the war effort, and justify his 1864 re-election; and Mrs. Howe sensed instinctively that the North's military spirit for late 1861 needed elevation if it were to be sustained against a vigorous enemy. Compromised forensic, adulterated, and then pseudo-epideictic were the proper engines for the performance of this business.

The problem these writings as a set have left with us in their accomplishment of calculated objectives thus begins in the rhetorical nature of the "tools" they employed. Perhaps nowhere in the history of man has the millennialist impulse been so thoroughly set at liberty as within our own borders. Certainly we cannot find an equivalent in the officially Utopian states behind the Iron Curtain, nor even in the brief revolutionary phases of French and English history. Only *here* have men, without major interference, labored *in time* a century or more in order to *abolish time*, *repeal contingency*. And only while masquerading in pious vesture could this gnostic aggression against Being have enlisted so many Americans under its colors, hidden from their eyes, by gloss and ac-

cretion, the sensible inertia built into our history with its sober inceptions of 1776 and 1787-88.

Millennialism can mean no other thing today—and always moves from an ontological reaction against the distance separating, by definition, creation and Maker; moves into either a “pulling up” or a “pulling down”. With it we worship ourselves: falsify, and then forget our birthright. Variety, structure, measure, and any form or differentiated order are likewise millennialism’s enemies—the original bill of things as written for our tenure in this place of test and trial. A new Beast is always to blame for impediments to the perfecting will. And therefore someone else is to be assailed. Millennium is always to come. But not yet, not until after the next revolution, peaceful or bloody! The freeing, however, is never done—that is, without new slaveries. To this succession and shifting of targets there can be no end, no conclusion to the wandering hither and yon in quest of terrestrial beatitude. “On to Richmond” is, through the Promethean will, made one with “On to Berlin” and “Out to Alpha Centauri, down into the sub-atomic particle”, and finally “On through the secrets of the grave.” With each new goal the frustration born of unfounded expectations comes closer and closer to rending the ties that bind. Said another way, the rhetoric of easy hope can produce only the politics of discontent. For some years we have been proving out that particular proposition—the basic truth and inherent danger of democracy. As I remarked in the beginning, the demonstration may soon be complete.²⁶

NOTES

1. For further discussion of this notion I recommend Reinhold Niebuhr’s *The Irony of American History* (London: Nisbet & Co., Ltd., 1952); Ronald Van Zandt’s *The Metaphysical Foundations of American History* (The Hague, Netherlands: Mouton & Co., 1959); Albert K. Frederick Mark’s *Manifest Destiny and Mission in American History* (New York: Alfred A. Knopf, 1963); R.W.B. Lewis’ *The American Adam* (Chicago: University of Chicago Press, 1955); David W. Noble’s *The Eternal Adam and the New World Garden* (New York: George Braziller, 1968); and (especially) Ernest Lee Tuveson’s *Redeemer Nation: The Idea of America’s Millennial Role* (Chicago: University of Chicago Press, 1968). These are only a sampling of the relevant documents.

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2. For an epitome of this confusion, see p. 306 *et seq.* of Russell B. Nye's *The Almost Chosen People* (East Lansing: Michigan State University Press, 1966). Nye blandly assumes that liberty and equality are compatible imperatives. Far better on this subject (though still compromised) is Harry Jaffa's *Equality and Liberty* (New York: Oxford University Press, 1965).

3. On this "know-nothing" consensus see Daniel Boorstin's *The Genesis of American Politics* (Chicago: University of Chicago Press, 1953) and his subsequent studies of the American experience.

4. On this point we are indebted to William R. Taylor's *Cavalier and Yankee* (New York: George Braziller, 1961).

5. Actually, the original Constitution has *some* rhetorical character—the total document, that is. For its flavor is that of a matter of fact codification of what already *is* and strikes any reader as very different from the flare and trumpeting of a *thing that knows it was made*. The significance of this distinction will become clear in the unfolding of my subsequent remarks.

6. My basic source for these distinctions is Aristotle's *Rhetoric*, the Lane Cooper edition (New York: Appleton-Century Crofts, 1960). However, I draw upon the whole of classical rhetoric at certain points (especially Quintilian).

7. The use of the word "gnostic" indicates that I presuppose throughout this essay the calculus of Professor Eric Voegelin. The reader unfamiliar with his work should see *The New Science of Politics* (Chicago: University of Chicago Press, 1952) and *Science, Politics and Gnosticism* (Chicago: Henry Regnery, 1969). Pages 90 - 100 *et seq.* of the latter have a bearing on the paradox I emphasize here.

8. Epideictic, forensic, and deliberative rhetoric correspond more or less to the three voices of ancient rhetoric—Asiatic, Rhodian, and (of course) Attic. I mean by "Asiatic" political discourse disguised in the language of revealed truth—one of the ancient meanings of this term.

9. St. Paul, we should remember, did not fare well on Mars Hill.

10. My source here is Richard Weaver's *The Ethics of Rhetoric* (Chicago: Henry Regnery, 1953), pp. 164 - 85, an essay entitled "The Spaciousness of Old Rhetoric". I have developed a few of Weaver's points in "The Older Rhetoric Revisited: Hugh Blair and the Public Virtue of Style", *University Bookman*, IX (Fall, 1968), 12 - 16. Voegelin's *Order and History*, vols. I and II (Baton Rouge: Louisiana State University Press, 1956 and 1957), provides a basis for my understanding of this most ancient of rhetorics. Models for my analysis of composite realms of discourse are provided by James T. Boulton's *The Language of Politics in the Age of Wilkes and Burke* (Toronto: University of Toronto Press, 1963) and Paul Fussell's *The Rhetorical World of Augustan Humanism: Ethics and Imagery from Swift to Burke* (Oxford: The Clarendon Press, 1965).

11. As touchstones, see the peroration to Lincoln's 1842 "Address to the Springfield Chapter of the Washington Temperance Society" ("Reign of Reason, all Hail"), the close to his 1838 "Address Before the Springfield Young Men's Lyceum" (on the substituting of "Reason" for "fathers"), and his 1846 election handbill, "The Truth of the Scriptures" (confessing only that his inclination to "The Doctrine of Necessity" was impolitic)—pp. 32 - 33, 21, and 40 - 41 of Richard N. Current's collection, *The Political Thought of Abraham Lincoln* (Indianapolis: Bobbs-Merrill, 1967).

12. On this "double America", see *The Basic Symbols of the American Political Tradition*, Willmoore Kendall and George W. Carey (Baton Rouge: Louisiana State University Press, 1970); Kendall's "The Two Majorities", *Midwest Journal of Political Science*, IV (Nov., 1960), 317 - 45; and some of Kendall's other comments on our national beginnings scattered in *Willmoore Kendall Contra Mundum* (New Rochelle, N.Y.: Arlington House, 1971). Further support (of sorts) for separation of state and community occurs in Martin Diamond's "Democracy and *The Federalist*: A Reconstruction of the Framers' Intent", pp. 10 - 24 of *Liberalism and Conservatism: The Continuing Debate in American Government* (New York: D. Van

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Nostrand Co., Inc., 1966), ed. by Willmoore Kendall and George Carey; and in Diamond's "The Federalist" in *History of Political Philosophy*, ed. by Leo Strauss and Joseph Cropsey (Chicago: Rand McNally Co., 1963), pp. 573 - 93.

Also valuable in this connection is Daniel Boorstin's *The Americans: The National Experience* (New York: Random House, 1965).

13. *The Statesman* or *The Republic*.

14. All students of the Lincoln myth are in some debt to Edmund Wilson's magisterial *Patriotic Gore: Studies in the Literature of the American Civil War* (New York: Oxford University Press, 1962), pp. 99 - 130. Wilson (pp. xvi - xx) seriously compares Lincoln with the other great "founders" of our age—Bismarck and Lenin. He identifies all three as Prometheans—"men of blood".

David M. Potter has some interesting comments on Lincoln and Lincoln scholarship in pp. 151 - 76 of his *The South and Sectional Conflict* (Baton Rouge: Louisiana State University Press, 1968). Harry Jaffa documents Lincoln's evolution into a democratic Caesar in *Crisis of the House Divided* (New York: Doubleday, 1960). I accept Jaffa's exposition but, like Frank Meyer, deny the interpretation he has embedded in it. Gottfried Dietze's *America's Political Dilemma: From Limited to Unlimited Democracy* (Baltimore: Johns Hopkins University Press, 1968) is a more convincing discussion of what Lincoln has really "done for his country." Also *Lincoln the Man* (New York: Dodd-Mead and Co., 1931), by the Illinois poet, Edgar Lee Masters.

15. There is no adequate account of the English Whig mind in the North American colonies. Of value toward a preparation of such a study are Zera S. Fink's *The Classical Republicans* (Evanston: Northwestern University Press, 1962); M.J.C. Vile's *Constitutionalism and the Separation of Powers* (Oxford: The Clarendon Press, 1967); H. Trevor Colbourn's *The Lamp of Experience: Whig History and the Intellectual Origins of the American Revolution* (Chapel Hill: University of North Carolina Press, 1965); Caroline Robbins' *The Eighteenth-Century Commonwealthmen* (Cambridge: Harvard University Press, 1959); Bernard Bailyn's *The Ideological Origins of the American Revolution* (Cambridge: Harvard University Press, 1967); and Gordon S. Wood's *The Creation of the American Republic: 1776 - 1787* (Chapel Hill: University of North Carolina Press, 1969). The customary ignorance of rhetoric leads to confusion in most of these studies. And especially the last two.

16. I cite the evidence in vol. I of Julian P. Boyd's edition of *The Papers of Thomas Jefferson* (Princeton: Princeton University Press, 1950), pp. 315 - 19 and 413 - 33. Jefferson built the entire document around an original which was nothing more than a list of "crimes" by George III. Much was removed from his embellishments of this core, usually because it did not suit the form of the legal instrument. But not the beginning of paragraph two!

Willmoore Kendall in "The Civil Rights Movement and Coming Constitutional Crises", *Intercollegiate Review*, I (Feb., March, 1965) testifies to this quality in the Fathers (p. 56), to their view of George III's "abdication" or removal of himself. So does Gordon S. Wood. Both Wood and Bailyn read with "blindness" and see only the radical Whig influence on the revolutionary generation. But Wood is very wise at one point (p. 10); for he senses how instinct with meaning was the triumph of English common law inside the American system. (On this subject see also pp. 97 - 265 of Perry Miller's *The Life of the Mind in America* [New York: Harcourt, Brace and World, 1965]; Daniel Boorstin's *Mysterious Science of the Law* [Boston: Beacon Press, 1958]; and Anton-Hermann Chroust's *The Rise and Fall of the Legal Profession in America* [Norman: University of Oklahoma Press, 1965].)

17. My point here is taken from Kendall's "Equality: Commitment or Ideal?" *Phalanx*, I (Fall, 1967), 95 - 103. Indeed, this essay is in large measure a supplement to Kendall on the Declaration and Lincoln's "magic" (p. 95) in rewriting it by allusion.

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18. Lincoln himself acknowledges the limited abstract value of the Declaration—that is, unless its overall form be ignored—in his April 6, 1859, letter to Henry L. Pierce (*The Political Thought of Abraham Lincoln*, p. 124).

19. Consider p. 17 of *The Political Thought of Abraham Lincoln* (again the Springfield speech of 1838) for Lincoln's use of these words. A nation like the one made at Gettysburg must, of course, divinize its author. Therefore the predictability of the Lincoln myth—of a political god.

20. John Crowe Ransom, "Address to the Scholars of New England", p. 73 of *Selected Poems* (New York: Alfred A. Knopf, 1952).

My summary of New England thought and letters is supported by Sacvan Bercovitch's *The Puritan Origins of the American Self* (New Haven: Yale University Press, 1975).

21. Two recent readings of the "Battle Hymn" are in Tuveson (pp. 197 - 202) and Wilson (pp. 91 - 96).

22. For a discussion of the confident epideictic, I recommend pp. 266 - 306 of Bernard N. Schilling's *Dryden and the Conservative Myth* (New Haven: Yale University Press, 1961).

23. Wilson (p. 96) is disturbed by these lilies and speculates that their purpose is to set Christ at some distance from the angry destruction of Jehovah, thus preserving His gentleness with a fused allusion to His passive death and pastoral birth. My view is that the distinction is one of time—of Christ in the gospels and Christ in Revelation. Hence, Mrs. Howe manages to have it both ways—to call for what Ronald Knox named "enthusiasm" while keeping clear of our natural hostility to the pathology that motivates her; the finality of her shifted tempo and "old-fashioned Jesus" gives her the appearance of "sweet reason" even while she withdraws nothing of her inflammatory "general order" to the North. Her procedure is a miniature of the entire gnostic process.

24. Lincoln and his poetic supplement are close here. The "blood" that is the "inevitable price" of "blessings" (rational egalitarianism) inhibits neither President nor poetess. See p. 32 of *The Political Thought of Abraham Lincoln*.

25. A recent summary of millennial thought in the North during the period of conflict appears in James H. Moorhead's *American Apocalypse: Yankee Protestants and the Civil War, 1860 - 1869* (New Haven: Yale University Press, 1978).

26. For a sample of this new nervousness filtering into scholarship, see Edward C. Banfield, *The Unheavenly City: Nature and the Future Urban Crises* (Boston: Little, Brown & Co., 1970).

PART IV

A PROPER PATRIMONY: RUSSELL KIRK AND AMERICA'S MORAL GENEALOGY

It is nowadays the fashion to think of these United States as a wholly "invented" polity, as the pure and miraculous handiwork of those gifted political craftsmen who were our honored forefathers and whose high achievements we celebrated during the recent commemorative year. It is also the conventional wisdom that our original revolution was *the* genuine revolution, the paradigm for all serious and progressive rebellions, early or late, and the fulcrum upon which the modern world has since been obliged to turn. It is obvious that the emphasis behind these assumptions is upon what was new about America, that break with the general Western prescription which should ostensibly account for our distinctive political habitude and origination. A corollary premise is that such a revolution is destined to continue on and on, perpetually unfinished, perpetually at war with whatever remains of the older world turned upside down when Lord Cornwallis marched out from his works.

What I have been describing is, to be sure, the basis for a variety of impious readings of the American past. In recent months we have heard or read about them all as part of the regular Bicentennial fare. And perhaps detected in the almost choral harmonies of the music they make together a fanfare sanctioning disorders yet to come. However, most of our countrymen are so thoroughly accustomed to the calculus which informs these interpretations that they notice its operation rarely, if at all. When told that the France

of Robespierre, the Russia of Lenin and the China of Mao are close relations to the America of 1776, that our "political religion" is a position defined by reaction against the structures, customs, and feelings which had informed the long record of Western man prior to the inception of our adventure with independence, they offer no objections. And even though the same solid citizens will, in all likelihood, act in their everyday affairs to belie such infamous analogies, the pressure of distortion gathers continuously in the absence of vigorous refutation. The results, in our contemporary social and political discourse, are something we experience with ever growing dismay.

Thus we face the paradox that what we are taught from authority concerning the American Revolution is the measure of our confusion on that subject. Here the influence of Louis Hartz and Bernard Bailyn comes quickly to mind. And I mention their names only to typify a more numerous breed—all of them relatives of the frenetic persona in Swift's *Tale of a Tub*, all, like that mad hack, gathering materials for "A Modest Defence of the Proceedings of the Rabble". *The Roots of American Order** presupposes, as a piece of rhetoric, no other state of affairs, no less formidable adversaries to confound. I use the word rhetoric advisedly. Praise of discontinuity, rupture, and drastic innovation is ever the song of the new ideological historians—of helpful, not baneful change: but change *identified as good by being identified as radical*. Kirk, however, writes no Tory apocalypse. He contends that our roots run deep and remain intact, that to know them is to recognize both their antiquity and their present hold upon us. His book is a calculated inquiry into the genesis of our national character which looks behind events and documents to remote antecedents and attempts to encourage a modest estimation of its originality, a thoughtful appreciation of how much and how far it was brought to these shores, and a quiet rejoicing that we remain, in our essential qualities as a people, so well and so anciently grounded in the fund-

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ed wisdom of the ages. Kirk's amiable but unremitting determination is to require of our generation a grudging admission that America has a religious, a moral, and *therefore* a political genealogy: a patrimony that could be called *unrevolutionary* and not at all modern, whose order-giving strength owes, by accident or omission as much as by design, to continuities so axiomatic that we have rarely, until of late, felt any need to speak of them at all.

Thus came his book to be a special sort of anomaly: a study of America which devotes less than a third of its pages to life on this side of the Atlantic. Indeed, some of its larger components could be read with very little of a particular national theme in mind. One instance is the section on "Roman Virtue". Another appears in a few fine pages on Scotland's St. Andrew's University (the subject of a fine Kirk monograph—and his European alma mater). These excursions might puzzle the reader who likes to think of America in terms of disembodied ideals. But, given his purposes, Kirk had no other choice of procedures, no alternatives in emphasis. Most of the little that Kirk does write about colonial America or the formation of the Republic is included primarily to point his readers backward in time, to trends and authorities established among us long before we became our own kind of one and many.

Jerusalem, Athens, Rome, and London—the four great iconic cities for the Anglo-American and tropes for four distinctive structurings of social and political life, these plus an assortment of supporting figures who have made for our perception of these citadels as a sequence and a synthetic "given"—are the ingredients in Kirk's cultural dynamic. As a principle of order Jerusalem represents, of course, faith and pious submission. Athens signifies (apart from its force as a negative political example) reason and art: philosophy and the examined life. Rome is a simpler model. Rome is law and public order, a notion of the common good, of corporate liberty. After Rome comes Jerusalem again—the life, death, and resurrection of Christ. Medieval man sifted that first Jerusalem *and Athens and Rome* through the filter of the gospels, the fullness of God's revelation to His creation. And, most significantly for

Americans, in and around the city on the Thames. Christianity taught of the integrity of the individual soul. In England that translated into liberty under law, in community. Kirk gathers up the threads as he goes. Mixed in with his discourse of cities and men is an account of certain habits and ideas, their slow and steady formation. And much church history. For the moral imagination has many of its roots there, as Kirk never allows us to forget, though the decorums which it nourishes take a prudential, secular form. These reverend patrimonies, religious and traditional, reach so far back into our composite past and have so nourished our identity that we are loath even to think of them unless they begin to lose their hold. And they *are* inseparable. Hear Kirk on the English absorption and combination of previous Western culture:

From that time [of conversion] forward, despite conquest by the Danes and later by the Normans, despite the English Reformation of the sixteenth century and the Civil Wars of the seventeenth century, one may trace the development of English law, English political institutions, and English civilization—a continuity that would spread to America in the seventeenth century and would provide fertile soil in which the American culture could take root. Knowledge of medieval England and Scotland is essential to a decent understanding of American order. During those nine hundred years between the coming of Saint Augustine of Canterbury and the triumph of Renaissance and Reformation at the beginning of the sixteenth century, there developed in Britain the general system of law that we inherit; the essentials of representative government; the very language that we speak and the early greatness of English literature; the social patterns that still affect American society; rudimentary industry and commerce that remain basic to our modern economy; the schools and universities which were emulated in America; the Norman and English Gothic architecture that are part of our material inheritance; and the idea of a gentleman that still may be discerned in the American democracy. This medieval patrimony was so much taken for granted by the men who founded the American Republic that they did not even trouble themselves to praise it so much as they should have done. (p. 178)

A major purpose of this volume is to correct the distortion made possible by the silence of the “founders”.

The centerpiece of *The Roots of American Order* may well be Kirk’s discussion of Great Britain after the Renaissance and Reformation, from the sixteenth to the eighteenth century. It is a master-

ful synthesis of social, cultural, and political developments. That we are an extension of this record no one who reads these pages will hereafter be disposed to doubt. Yet this observation can mislead. And all the rest of his narrative of Western beginnings may charm us overmuch. We have had from Kirk's astonishing career proof of a profound interest in the acts and monuments of Europe. In truth, the demonstration of this concern is so considerable that hostile comment on the Wizard of Mecosta has sometimes argued from it that he is only a cultural expatriate, a connoisseur of archaic places, persons, and emotions. But, because of the fashion in which Kirk links this passion to his perspective on the formation of our nation, we can now insist that Russell Kirk was always occupied with the old world *chiefly because of his identification with the new*. He is an instinctive master in the reconstruction of a living social and political condition, the *Gestalt* of seemingly contradictory impulses and imperatives operating in configuration within or behind the thoughts and deeds of men and nations. His sketches of persons mighty in battle, in thought, or in the spiritual realm are illustrative of this gift. Yet in each of these portraits drawn for *The Roots of American Order* the teaching remains clear: they (or their kind) helped directly to make us what we are. Or what, at our best, *we should be*. Never again will students of Kirk's career doubt that his absolute location in upstate Michigan and his identification with the "wise prejudice" of that ancestral place is consonant with his salutes to the classical, the medieval, the Scots, and (American) Southern regimes. In all of these explorations Kirk writes as a recognizable variety of American. And if that American speaks in the English idiom of an Old Whig or moderate Tory, the inheritance he applies to our situation has all the more authority in its application of the *mores majorum* formed and tested long ago by the intellectually most significant of our progenitors: a habit of mind built into the language it created and sanctioned by fruitful use.

This book is therefore not so much a dissertation on American history as a prolegomenon to the study of discrete components of that record and a context for such restricted inquiries: a Burkean

preface to historical research *per se*, and a touchstone for understanding the specious eschatologies and mythologies which structure the narratives of our regnant historians. Since the filter through which the general Western prescription came into our system is a British one, the pivotal sections of Kirk's inquiry concern, *a fortiori*, the effect of that filter on the decisions which drove British America to pursue a destiny of its own. His great point is that the impetus was itself English, and after the Revolution continued to be English—at least until 1860. Kirk on the heritage of the English common law, the rule of *stare decisis*, as that mentality has shaped our common course adds, I believe, some valuable insights to the study of American politics: Kirk on Blackstone and his predecessors, whose authorities were not set aside with the rejection of George III. Hear again his words: "It was to the precedent of the Petition of Right [1628], among other constitutional precedents, that American Patriots would look in the 1760's and 1770's, and many of the grievances listed in the Petition would reappear in the American Declaration of Independence" (p. 261). Kirk keeps us ever mindful that we were not "made" but, rather, thanks to new circumstances and "benign neglect", simply "grew". The institutions of representative government flourished from earliest times in almost every North American colony. Also a plurality of churches, some of them established; and the habit of religious toleration, at least outside of New England. Equally convincing are Kirk's observations on how we adapted the total British precedent without any sense of irreverence toward the model or much awareness that real modification was in process.

A body of transplanted English freeholders with a few town men thrown in, minus a nobility or powerful church establishment, could not, in a new land, have turned out any other way. At least, not after 1688 and the development of a legalist, xenophobic, and unphilosophical rationale for political justification of that most English and conservative of rebellions. The Declaration of Independence is a forensic, rhetorical document, the end of a series of such, designed to enlist recruits here and sympathy in England.

It is intellectually an outgrowth of the Glorious Revolution. Understood historically and in its formal character, read as you would read a public poem, it tells us how to approach our departure from the royal protection. And as rhetoric, in what it specifies and what it neglects to mention, the Constitution is equally eloquent: in its ideological sparseness, its derivation of authority from pre-existent states (resting on English charters, English history, and what legally had being); and also in its first ten amendments, drawn directly from England's own 1689 Declaration of Rights. The inference is unmistakable. *Separation came from the other side.* Americans remained within the inherited identity, keepers of that most basic and inviolate of compacts, between the living, dead, and yet unborn. From these materials has subsisted (in our author's terms) an "unwritten constitution" of our own. To this union we gave—on purpose, in the English spirit—only partial expression, chiefly in connection with new economic and political realities which were part of the American scene after the thirteen sovereign states achieved their respective autonomies. But a people with a real genealogy have no need of ingenious founders or the abstractions of contract. Kirk conceives of his work in these matters as a labor of restoration and recovery, not as a venture in intellectual innovation. However, as he well knows, to suggest such historically "self-evident" truths concerning 1776 and 1787 is, for this bemused generation, more shocking than mere originality could hope to be. To repeat, emphasis on the English filter is necessary to their demonstration.

In two other respects *The Roots of American Order* will scandalize those educated conventionally. I refer here to Kirk's insistence upon the authority of revealed religion among earlier Americans and his tributes to the ideal of the gentleman. The tenets of the Christian faith are the second prescription in his account of our roots. Right order depends upon the commitment of single persons to its ground, an acknowledgment of some outside authority. Excessive individualism is checked only by such extrinsic force, when it is freely admitted. Moral order within strong men binds the

Commonweal to the Godsweal. Both rest finally on a sound ontology, without which no decalogue can operate with force. And gentlemen are the vessels of this sound ontology, those who are ever conscious that the gods alone assign our stations and exact a performance equivalent to their importance. In a nation where almost nothing was codified—where communities were very different, each jealous of its own character while still desiring a definite but restricted link to the rest—no more than a *de facto*, localistic religious/social structure made good sense; that is, if the balance of these conflicting imperatives was to survive.

Thus the customary reading of certain silences in our Constitution is clearly off the mark. Some of this learned distortion Kirk disarms with a few remarks on the merits of genuine “federalism”. Other vulgar errors concerning “democracy”, “competition”, or “liberation” are negated by the aforementioned “characters”: Jesus and Paul, Solon and St. Augustine, John Knox and Cicero, Marcus Aurelius and John of Brienne, to mention but a few. I value in particular his paired discussions of John Locke and David Hume. As regards their utility in the explication of an emerging national personality we have heard too much in praise of the former, far too little of the latter. Locke’s notion of politics in a presocial vacuum had few advocates in the Philadelphia of 1787. Hume’s skeptical prudence was more in evidence in the drafting of our Constitution than any theory of human rights as imperatives operating outside of a specific cultural continuum. For the same reasons, I admire the sketches of Sir Thomas Browne and John Bunyan. Again contrary to what we are told by the secularist authorities, their voices are still heard in this land, bespeaking an invisible communion all the stronger for being interior and beyond the prying eyes of such hostile examiners: audible in the hymnody in which most of us still join to celebrate our deepest loyalties in the time of worship. To reveal and display a bit of this submerged cultural iceberg is Kirk’s enterprise. For, as he writes in conclusion, “Gratitude is one form of happiness; and anyone who appreciates the legacy of moral and social order which he has inherited in

America will feel gratitude" (p. 475). He ends his text proper with the most extensive of his sketches, an appreciative comment on a neglected predecessor in American thought—and, in many ways an analogue to Kirk himself. Orestes Brownson, a New Englander by inheritance, after being exposed to all the "armed doctrines" of his day, settled in Michigan, and ended up a Roman Catholic and a traditionalist. Brownson wrote in his *The American Republic* (1865) the prototype of the book here under consideration. The old reformed radical praises "territorial democracy" and bemoans its decline. His is not a hopeful composition, nor were the years of its origination—not to a man like Brownson, or a man like Russell Kirk.

Which brings me to express uneasiness about one quality of *The Roots of American Order*, a quality made inevitable by the rhetorical objectives of the work but nonetheless deserving of mention in a full assessment. As I observed above, Kirk more or less concludes his account with the War Between the States. This emphasis is a tacit admission that the objections I have in mind are very much in order. For it is necessary to recognize that almost coeval with our oldest roots are components of the national temper which have perpetually threatened to poison the healthy springs on which they feed. The locus of these obnoxious elements is the New England of the worldly but still "holy" covenant, of antinomian, chiliastic politics; and their principal distributor into the American intellectual bloodstream is our chief of men, the Illinois Cromwell, Abraham Lincoln. The City upon a Hill, once renamed "Union" and refounded by "fire and sword", is not really the Republic of Kirk's reverence. And to join the two is to nourish both. True enough, our native gnosticism is a "sometimes thing", even in its principal champions. For instance, the regimenting Federalists deserve credit for arresting the spread of French "isms" and for preserving the common law. And Lincoln often contradicts the heresies boldly trumpeted in the House-Divided, Gettysburg, and Second Inaugural Addresses. In one situation the Great Emancipator may arrogate to himself, by argument *and* language, an es-

pecial intimacy with the Divine Will. He is prepared, when seized by the afflatus, to declare that the multi-faceted union ordained by the Fathers has brought upon their sons (and especially upon moderate men in the North, long comfortable in this "divided house") a judgment from on High. On another occasion he will offer to the "sore thumb" of our internal variety, the long accepted fact of black slavery, a constitutional guarantee more rigid than what was needful to secure a confederation in the first place. Sorting out this network of conflicting opinions is a thankless task, a labor requiring the skill and the example of a Russell Kirk. Yet, for reasons he has taught us, it must be done. And with the instruments he (among others) has put into our hands. It is enough to say that if Kirk's Federalists and his Lincoln were as plausible as the ambiguous demons of my own syncretic typology, we could endure them well enough. Then might we occupy ourselves more with cultivating than with protecting the old stock tree that we both love well.

But for the moment we must take advantage of the impetus given to us by *The Roots of American Order* and perform some of the labors which it (like earlier Kirk studies) challenges us to undertake. The futurists who construe the past according to the measure of a tomorrow they can only imagine—a dream, usually bad, which hopefully will never come true—must be confronted in connection with the discrete segments of the American record. And with reference to the history of American *disorder*, of which Kirk speaks only by comparison. Spurred by his achievement, let us have narratives, mixed with generous portions of biography and analogue, and a quiet emphasis on commitments shaping the actions of those involved long before they have found theoretical expression. Let us demonstrate how the bonds of faith, friendship, family, and common experience have ordinarily obtained in our national affairs, whatever abstract explanations are imposed upon them after the fact. However, as we follow this example, let us pay tribute to its source, recall who has been and continues to be such an anchor of our political sanity and for so long the special keeper

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of this prescription for Americans who call themselves conservative. Where the study of these roots is concerned, we all begin with Russell Kirk.

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. . . . Bradford brings the founders alive for us intellectually, turns them into our contemporaries and counsellors, invites us to participate with them in serious conversation. Washington, Dickinson, Patrick Henry—no longer remote figures, they become felt presences in these pages. . . .

* * *

In this book, in these essays, some of them among the most important of our time, Bradford provides us with a masterful phenomenology of the American and Western spirit. We can hardly prosecute the struggle we are in unless we recognize that we are in it, and unless we recognize its nature. Bradford provides the necessary recognition.

—Professor Jeffrey Hart
from the Introduction

A Better Guide than Reason offers a definition of the Old Whig political tradition in American thought. It is evidence that the inheritance of the prescriptive anti-federalists is living still.

There are some sharp surprises in this book. For one thing, we are told that important elements in our heritage from the American Revolution have been systematically hidden from our view by anachronistic and partisan scholarship and that other, more “ideological” components have been emphasized at the expense of the rest. According to Professor Bradford, Abraham Lincoln, instead of preserving the Union, did violence to the precedent of the Fathers, while the authors of Southern secession honored both its letter and its spirit. Patrick Henry, not Thomas Jefferson, is the representative political figure in the Virginia of 1776. And the part of Jefferson that got political support from his neighbors was closer to Henry than Thomas Paine. The movement of South Carolina toward separation from Great Britain is more instructive than the equivalent portion of Massachusetts history, John Dickinson a better political philosopher than James Madison, and Roman historians such as Livy of more influence on the thought of the early Republic than John Locke.

Yet the real distinction of this book is in its unusual and heterodox focus on the Declaration of Independence itself and on the nonegalitarian rhetorical analysis in the context of its second paragraph. All of the included studies point back finally to this theme. Neither equality of condition nor full equality of individual rights for every inhabitant is foreseen by our instrument of separation, only constitutional equality—plus the rights of self-preservation. Here we find an explanation of what some scholars have seen to be a contradiction between the Declaration and the Constitution of 1787. Professor Bradford insists that the objective of the original American experiment was continuity with the colonial past *at its best*, which included local independence from any threatening Leviathan. The American Revolution was made against concentrated power and is violated whenever such powers are granted in its name.